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ABSTRACT

This political document is introduced by the head of the Spanish State, His Excellency Don Francisco Franco Bahamonde in a speech given on 22 November 1966 to the session of the Spanish Cores. The speech outlines in general terms the political and philosophical ideals of His Excellency. The Constitution is presented in several sections including: (1) fundamental laws of the State, (2) some aspects of the Spanish Constitution, and (3) an alphabetical outline of subject-matter. Appendixes contain two laws which are considered to complete the disposition of the fundamental laws. They are the Organic Law of the Movement and its National Council of 26 June 1967, and the Law Regulating the Appeal of Contrafuero of 5 April 1968. An index is included. (RL)

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FUNDAMENTAL LAWS OF THE STATE

THE SPANISH CONSTITUTION

FL 003 645

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HIS EXCELLENCY DON FRANCISCO FRANCO BAHAMONDE

HEAD OF THE SPANISH STATE

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I. PREFACE

Spain has an open constitutional system which was set up in 1938. It comprises a series of laws which by virtue of their nature, fall into the category of fundamental laws. This system originated with the Fuero del Trabajo (Labour Law) of 9th March, 1938, later amplified by the Constitutive Law of the Cortes of 17th July, 1942 (and amended by that of 9th March, 1946), the Fuero de los Españoles (Statute Law of the Spanish People), of 17th July, 1945; the Law of the National Referendum of 22nd October, 1945; the Law of Succession in the Headship of State of 26th July, 1947; the Law on the Principles of the National Movement of 17th May, 1958; and, finally, by the Organic Law of the State of 10th January, 1967. The designation of the cited dispositions as Fundamental Laws was effected by the Law of Succession in the Headship of State, in the case of those passed prior to that Law, and in the case of those passed subsequently, by the appropriate constitutional norms. The titles of the Fundamental Laws are sufficiently descriptive to give one an idea of the scope allowed the constitutional norms at the present time. Throughout the past thirty years, the Spanish State has been drafting and submitting to referendum a number of dispositions regulating all the basic aspects of national life. In effect, after the initial regulation of social and labour questions, the first of the Fundamental Laws of Spain, there followed the institution of the supreme organ for the participation of the people in the collective tasks of the State, through the Law of the Cortes. Then, the rights and duties of the Spanish people were given constitional status in the Fuero de los Españoles (Statute Law of the Spanish People). Similarly, the Law or the National Referendum established a system of direct democracy which permits the intervention of the entire nation in any dispositions that may warrant such intervention. Finally, a disposition in respect of the mechanism of

the succession was approved, which guarantees continuity on the death of the Caudillo (Franco). As an aggregate of all the foregoing dispositions, there was decreed in 1958 the Law on the Fundamental Principles of the National Movement. And lastly, the constitutional system was completed by the approval of the Organic Law of the State, which regulates the structure and the functions of the organs of Government.

The importance of these Laws, their scope and the transcendental nature of the factors governing them have demanded the highest degree of dexterity in their preparation. For this reason, the process of their formulation included a number of technical and political phases, culminating in their legalization by the people. The preparation of the Laws began at the technical level, with the collaboration of the most eminent Spanish specialists in each field of inquiry, holding office in the legal departments of the various Ministries. Each and every Law has been drafted with the autmost precision and care, the different Cabinet Ministers intervening directly in such drafting, thus contributing their experience and their political understanding, and ensuring a realistic assessment of the problems involved. But the most decisive participation was made by the Head of State, who has outlined both the objectives and the directives to be followed as the basic ideas inspiring every Law. The definitive texts of the fundamental norms are a true reflection of the views of the Caudillo.

The technical perfection and the political timeliness of the different Fundamental Laws having been ensured, the Head of State brings them to the notice of the Cortes, the supreme organ of representation, which, after due perusal, approves their submission to the sanction of every Spaniard. The machinery of the national referendum, as a system of direct democracy, has twice been put in motion in Spain. The first occasion was in 1947, with the promulgation of the Law of Succession in the Headship of State, which regulated the fundamental questions inherent in the future of the country and established the fundamental character of the Laws passed before that date. Thus, the 1947 Referendum constitutes a ratification of all the norms of a constitutional nature which became manifest in Spain up to that moment.

The second occasion was in December, 1966, with the approval of the Organic Law of the State, together with all the

amendments to the other Fundamental Laws. The Government was thereby authorized to publish in a revised version all the major dispositions existing before that date. This new Referendum represents a definitive confirmation of the Spanish Constitution. These two events, in which the counsel of the nation was sought, and whose overwhelming positive result is unquestionable, are in themselves an indication of the most absolute support and the irrefutable affirmation of the Spanish people that they are in agreement with the fundamental legislation as passed.

Furthermore, the majority and almost unanimous "yes" in both Referenda is tantamount to a vote of confidence for the Head of State, who has proved his ability to interpret faithfully the interests and the wishes of the Spanish people when the time came to propose the Fundamental Laws to the nation. It is only this synchronization of the thoughts of the Caudillo with de ideals and aspirations of the Spanish people that can explain the sweeping majority of votes obtained in the Referenda of 1947 and 1966.

Perhaps one of the reasons behind the popular consensus obtained by the Referenda and the Fundamental Laws lies in the openness and comprehensiveness of their nature. As the Caudillo has said on many occasions, Spain is in a perennial process of constitution. But this inception of the Spanish Constitution, this possibility of expansion and of adaptation to the demands of the moment, does not affect her stability of ther permanency. On the contrary, the Fundamental Laws have a mission in the future. Proof of this is that in the Law of Succession in the Headship of State, which enumerates the Fundamental Laws, it is stipulated that their derogation or modification is subject to not only the approval of the Cortes, but to a National Referendum. This express mandate signifies that the Fundamental Laws are intended to have a degree of continuity throughout the periord of their efficacy as a basic element for the orderly development of the social life of the people.

The sense of open constitution in the Fundamental Laws is an outgrowth of the concept of the Regime that the principal norms must at all times be in keeping with the special characteristics and needs of the nation, and must take into account the mentality and attitudes of the Spanish people. It follows, therefore, that a reforming mechanism must be prepared for the expansion and perfecting of such laws. Similarly, this possibility

of reform is imperative in the case of the Spanish Fundamental Laws, in view of their scope and the variety of questions falling under their jurisdiction. The problem of the Spanish State was either to restrict the dispositions of a fundamental nature to a limited number of aspects of life, thus endowing them with a more permanent character, or to extend the regulation on constitutional lines to all those hypotheses and questions whose importance seemed to justity it. The second method was adopted and, therefore, the Spanish Constitution had to be made susceptible to constant adaptations and improvements.

In Spain, the Fundamental Laws regulate all the matters covered by traditional constitutions, as well as a number of specific questions and problems dictated by the special conditions of the country, which had to be given prime importance. Thus, Spanish fundamental legislation deals with a variety of aspects of the problems of the community. It embraces the systems of reform of the Constitution; the duties and rights of the Spanish people; the management of property; national sovereignty; the Head of State and the Government of the Nation, including the the President and all Ministers; the Spanish Cortes (Parliament) and the National Council, the second representative Chamber; the relations between the Cortes and the Government; the administration of Justice; the Council of National Economy; and the Territorial Districts. Furthermore, the Fundamental Laws include a number of norms relating to labour laws, to the regulations governing private enterprise, Trade Union Organizations, etc.

This wide range of subject-matter, this extension of the terms of reference of the Fundamental Laws, may give the impression that, in essence, they are merely declarations of principles which have been maintained at the planning level, but which have not been actually applied in operative dispositions. This however, is not the case. On the contrary, each of the precepts of the Fundamental Laws has been developed in a specific and tangible way in ordinary Laws, in Decrees and in Ministerial Orders. This volume contains the complete text of the Fundamental Laws, with foot-notes indicating the principal dispositions that have been issued in their execution. It is by no means exhaustive. It is a simple guide, showing how the Spanish legislator has, at all times, been conscious of the norms of the constitution, putting them into practice at the opportune moment, and respecting their spirit and intention.

Finally, a throrough understanding of the Fundamental Laws demands their appraisal as a whole, to be executed as a whole, as a true Constitution. Otherwise, it would not be possible to grasp their complexity nor their unitarian and co-ordinated structure. The same questions are covered in different Fundamental Laws, a technique quite different to that of traditional Constitutions. No attempt has been made to seek a unity of formal treatment, but each question is approached from different angles and is subject to different Laws. It therefore seemed proper to include in this volume a number of charts, graphs and schemata, to illustrate how each question is dealt with in the Fundamental Laws as a whole. It should be pointed out that the Spanish Fundamental Laws constitute the basis of a true Constitution, in the traditional sense of the term. On the other hand, they differ in technique of preparation, in formal presentation and in scope (by including a variety of unusual questions) from other Constitutions. The structure of the Fundamental Laws has the extraordinary advantage of adaptability and conformity to the exigencies of the times and political realities. It offers the possibility of treating, at a fundamental level, and of converting into a norm that should inspire the entire legislative body, every important issue. Besides, its open system ensures constant improvement in its methods. In any event, it has proven to be the system that is most appropriate to the Spanish character, to the historical reality of the age, and to the needs of the political present and future of Spain.

II. SPEECH OF H.E. THE HEAD OF THE STATE AT THE EXTRAORDINARY SESSION OF THE SPANISH CORTES ON THE 22nd OF NOVEMBER, 1966

GENTLEMEN:

As on previous occasions, I have asembled you here today as the legitimate representation of the Nation, to inform you and to request your agreement on fundamental matters which I consider of far-reaching consequences for the future of our mother country.

Thirty years have elapsed since I took formal possession of the powers which were conferred upon me by the Junta of National Defence, constituted during the first days of our War of Liberation and which devolved upon me the great responsibility of winning the war and elaborating the peace.

This decisión, which was immediately supported by the political forces of the Nation which integrated the Movement, was solemnly ratified on the 17th of June, 1947 when by National Referendum Spaniards sanctioned these powers which had been entrusted to me ten years previously. This Referendum emphasized in an orderly ballot the unbreakable determination, countersigned by the insecurity of their own lives, which the Spanish people had expressed in moments when the lack of knowledge and understanding of the winners of the second world war attempted to drown our desires by means of isolation and by blockading our mother country.

The XXX anniversary would appear to be an opportune ocasion to sum up what was done, to examine what has been accomplished and to medidate on the future. For this purpose and before you and the Cortes, who by reason of its constitutive Law is the supreme participating body of the Spanish people in all State affairs, I wish to recall what these thirty years of Government have meant to Spain and her people.

Thirty years is a long period in any historical circumstance but, in a very special manner, in the times in which we live.

In fact, during this generation changes have taken place which in other epochs of less revolutionary dynamism would have required centuries. In these conclusive years world equilibrium has altered, international structures have evolved, the world has known an unprecedented scientific and technical revolution, the idealogical and cultural assumptions have changed and Humanity looks to new economic, social and political formulae.

If we look at our country, the changes have not been less; when our Crusade terminated we suffered the blockade and threats of the great universal conflict; many times the perils of war knocked at our doors resoundingly, but the gateways to our ancestral soil did not open to pressures from one side or the other. God gave us the necessary strength, the precise insight so that this should thus happen for the good of our people, devoted to the honourable task of rebuilding their destroyed homes until they reached a level which they had not attained since remote times.

During these thirty years I have devoted all my endeavours, my time and my powers to the cause of Spain. And the distance separating the starting point from the goals imposed was so great, that only faith and God's help gave me strength to accept the supreme and serious responsiblity of governing the Spanish people; convinced that he who acquires this responsibility at no moment can resort to being replaced or to relaxing but, on the contrary, must exhaust himself in accomplishing the task initiated, in improving the system elected and terminating the work for which he was chosen by those who rose to save the mother country, and whose position has been ratified before the world by the express opinion and adherence of our people throughout thirty years.

Our economy has grown at a rapid pace during this stage. The level of life has risen, education has reached unsuspected levels, Spaniards have seen their personal, family and national opportunities increase. Many of our countrymen have transferred from the country to the city. Cities have multiplied, transport and communications have grown at an incredible speed, and all this has been achieved in an atmosphere of peace, of order, of mutual understanding, of fertile national unity and of real and deep freedom.

These really constitute positive powers granted by a collective effort which was marked by faith on the 18th of July, a

date which should be established as the starting point of the modern and productive history of Spain: the powers of peace. Peace has been the noble objective point of collective well-being, of the transformation of the fields, of State assistance in the problems of man and the worker, of the regulation of the trade unions, of the channelling of individual efforts, of incentives to artists, poets and thinkers; the regulation of a healthy and efficient political life, actuating as a purifying filter for the poison and narcotics which one day obscured the vision of the old politicians and their frustrated attempts to make of this country something which had little to do with this old and stately Iberian lion, fraught with history and virtues which could not be forgotten. Peace has been the platform which has made possible the recovery of one of the most treasured values of mankind: the Spanish family and community with its open, well-meaning and admirable sense of hospitality. Think of those pitiful and disconcerted Spaniards of the thirties and ponder on what would have happened if they had been faced with the visit of seventeen million foreigners which are today just so many willing instruments spreading throughout the world the news of our peace. To be able to proclaim at the present moment any news regarding real peace is not a very common event, a strange species which appears to have been extinguished among men, involved in battles which have dramatically frustrated the peace in many countries.

I would wish to hit upon the right tone to submit to you a true valuation of the objectives accomplished which could be used as a platform for envisaging in a fitting manner our problems of the future. Bear in mind the mother country which I have received and that a social and political order has arisen from that anarchical and impoverished Spain by means of which we have been able to change our structures, attaining a rythm of proficiency and progress never equalled. Those who insist in not understanding us, attempt to argue that our evolution is logical within the dynamics of the present technological civilization. This can be said by those who have not known the previous Spain and have not encountered, subsequent to a cruel internal war, a country without economy, with empty coffers, no resources and deprived of all foreign aid. Those of us who have lived in the old Spain and have laboured since then in an effort to raise the country from its ruins, in the middle of a

world war, forsaken by those who could help us, well know that the revival of Spain, our well-being and development, is something accomplished exclusively by the faith and the effort of all Spaniards, firm in their irrevocable decision to achieve in the peace that which they fought for in the war.

For the generation of Spaniards who have reached maturity with us, there is little to tell them which they do not know or have not lived; on the other hand, for the young generation, the faithful recollection, the retrospective panoramic of a most recent history thirty years back, shall be the lesson and example bequeathed to them by their elders. And not only so that they con follow this example in future history but so that they can excel it, no matter what awaits them at the cross-roads along the times. This is our trust in the young people who have been born and grown within the Spanish peace. No doubt they will be better than us, as we attempted to be in respect of our elders. If we wish Spain to leave further and further behind the motives for political and economic chaos, social and cultural rustication, the moral disaster in which she was involved, the degradation and poverty resulting from a long period of decadence, we must confidently continue the work begun, handing over from generation to generation the lighted torch of revival.

What was Spain like before our Crusade? A poor nation, an old declining notion and to a great extent! A noble country which centuries of decadence and bondage, always in tow of foreign interests, had submerged in the most bitter deception. The Spanish people, so rich in virtues, had lost their faith in themselves and had taken refuge in the resignation of those who have no hopes; the clamour and gallant attitudes which arose sporadically here and there were unable to bring them out of this acquiescence. The Spain of 1936 governed by a Republic in which nobody believed except as a transition period towards chaos or towards a communist dictatorship, was a country in the throes of death.

Confusion had become a common denominator in our daily life. Spaniards could not live together — they did not thrust each other. Economy was falling to decay subjected to the pressure of more or less reasonable strikes, but turned into battering-rams which destroyed what little industry existed then, seriously affecting the elemental interests of the community. The streets scourged by murderous struggles was the scene of obasement

of those who had no other form of rebelliousness than that of the use of guns, ready to find a social justice supported by crime and the moral degradation of authority. Many of you well know how crime was rife in Spanish life, executed at the orders of the highest ranks of public power, to the point of becoming a common and current event in the lowest social sectors governed by lack of culture and stimulated by hatred in an insane race towards the corruption of human and spiritual values.

This might lead some to believe that those generations which preceded us might have been worse that the present ones. No doubt the men were alike ours. In these generations there were notable learned men, thinkers and values within the different grades; also technicians, managers, honest workers and honest politicians like ours. It was the whole system which was bad — the political machinery which confronted and destroyed them.

In such a predicament it was necessary to say "enough"! with all the forces of the heart if we desired to avoid the total disintegration of our people. Do you know which was the decisive weapon for such an outcry, no less harsh than the one heard every day in the streets — the latter full of hatred and provoking man to persecute man — so that the word "enough"! should establish the beginning of the new Spain? Faith. Faith in the essential values of our people, faith in our men, faith in the young who were going to have access to the government of their country because they believed in it. Faith in respect of the civic, cultural and social values of a community which seemed at the time to be invalidated for any important enterprise. Faith once again saved Spain not from chaos, but from herself, because with faith were saved her essence, her history, her honour, her culture, her freedom, her future unity and the greatness to which a country which signifies something in world accord, has a right. This unrenounceable faith which gave us victory over the forces which attempted to ruin the genuine Spain, also gave us this unchangeable peace which has made possible a united and different Spain, different, particulary, from the one which we had to rescue from chaos.

It is necessary that the new generations should medidate objectively on the extent of Spain's transformation, both physically and also morally, during these thirty years. This long period should not be examined in a purely negative critical sense which is contrary to the honesty and urge for truth which are charac-

teristics of the young. We do not wist to have our wortk eulogized: what we want are men who will appreciate in and gauge its value, and I am sure that those who examine this period in a truly impartial manner without letting their judgement be deformed by preconceived passion or hatred, will find in our work, together with the failings of any human task — and more so when a great part of it was effected in circumstances which more than difficult, were desperate — great achievements wich have brought Spain out of a secular dream, from keeping apart from the vital currents of Western civilization, to place her for the first time in many years, on the path to a better future.

It is not necessary to remind me of all that has yet to be done. Nobody better than I is aware of it and, as regards those who thus argue, I maintain that what little has been done in those thirty years, is enormous if compared with what was accomplished in Spain since the death of the Catholic Rulers to present times. Night after night it devolved upon me to sit by the bed side of some sick man who was dying, the result of war, ruin and hunger, whilst the powerful of this world, whom first their own war and subsequently the logical intoxication of conqueros, had made them forget the last scruples and resort to the ultimate coercions, awaited like birds of prey.

I would be unjust and ungrateful if I did not at this point, on recalling what Spain has been during the last thirty years, publicly acknowledge the portentious occasions on which not only during the war, but after its termination, God protected us by helping us to happily overcome ell difficulties.

During these thirty years different generations, hopeful generations, have collaborated in this task and given Spain all they had to offer. Generations which reached the life of the nation at the end of our struggle, and by the teachings of their elders and the hard apprenticeship of the first years of their lives, enlightened a way of life which has radically changed the course of events in Spain, both as regards her horizons as well as her anxieties. These generations also have my gratitude.

I reject resorting to the cold eloquence of figures to illustrate this discourse, for on this occasion it is more eloquent for our purposes to refer to what has yet to be done than to praise what we have achieved. I shall only make a slight reference to the effort made in expanding our culture, as it is the basis of our development: before the Movement, Spain had 42.766

schools; today there are 110.000. The number of teachers has risen from 46.805 to 130.000; the children enrolled, from 2.5 millions to four millions; from a percentage of attendance of less than 60 to 85 per cent.

In secondary education centres the difference is still more spectacular. The number of institutes has risen from 111 to approximately 1.700, with a much more varied and adequate instruction in respect of the multiple needs of a developing society. The professorship which gave tuition at these centres numbered 2.739; nowadays there are 26.000. Secondary education students which numbered 130.000, divided into 50.000 in official centres, 11.600 independent tuition and 68.400 in private schools, have now risen to over 800.000, divided into 140.000 official centres, 300.000 independent tuition and 360.000 in private schools.

Schools for training as teachers have risen from 54 to 152 and the number of students from 20.000 to more than 50.000. Students at the Universities have multiplied by three. All Spanish scholarships granted thirty years ago are less than those granted by the Patronage for Equal Opportunities in the smallest of Spanish provinces, the State having relinquished for this purpose the full amount of the general income tax collected.

Spain produced 24 civil engineers in 1935 as against 120 in 1965; agricultural engineers have risen from 42 to 262 respectively; forest engineers have risen from 8 to 58, mining engineers from 11 to 82; industrial engineers from 38 to 687 and architects from 71 to 191.

If I quote these figures it is not because we consider ourselves satisfied with the results of the cultural expansion, but to be reminded that notwithstanding the cost of this undertaking and its results, there is much more yet to be accomplished. It is true that not everything is perfect but, has it ever been perfect anywhere? What we have done was initiated with chance materials, lacking everything, beginning by the essential physical elements to qualified governing bodies, but notwithstanding these particularly unfavourable conditions, the aspect of Spanish society has undergone a radical change and a deeply favourable transformation which will make the work of those who succeed us infinitely easier than ours was. We have created a Spain prepared for more important achievements. In the material order, taking into account the level reached and modern techniques,

it will not be difficult to carry out a more notable improvement than that accomplished during these thirty years. But you should not forget that everything material is superficial, and that if we are unable to maintain our unity, our faith and our solidarity to make possible our undertaking, this previous course will become neutralized and will fall into definite inanity, inefficiency and disorder.

Spaniards must remember that each country always has its own familiar demons, different for each one. Those of Spain are denominated: anarchical spirit, negative criticism, lack of unity, extremism and mutual enmity. Any political system which carries with it the furtherance of these faults, the liberation of these Spanish demons, will destroy, sooner or later, more probabyl sooner, than later, all material progress and every improvement in the life of countrymen.

Ever since Spain placed on our shoulders the intricate task of solving the painful struggle, one of our most pressing preoccupations was to establish a political rudimentary order, qualified to accept whichever ideologies or formulae might be directed towards the common good, respecting national principles and based on a more just distribution of the national income, in a country sanely ready to meet a solid and constructive future. Thus by following an unblemished course, we raised the banner of fraternity amongst men and the lands of Spain to be held victorious over the old structures. We had to undertake our objective in the midst of a world of totalitarian belligerency, class struggles at a universal scale, under pressures, conditionings and circumstances such as had not befallen to any other country. We had to save at any cost the spiritual values of our faith and of our tradition and attain, with the efforts of all, the fulfilment of a political order of real freedom and social justice, building a State which would be the political expression of the permanent values of our national community, at the same time as a proper institutional system for the realization of a Legal order, and an efficient instrument for the progress, transformation and development of the basic living conditions of the Spanish people.

However, this undertaking was not easy, since neither the embers of the war were dead with the clamour of the last gunfire, nor the natural desire for freedom of expression was exempt from the dangers of returning to the starting point, if adequate

stages and channels were not established in accordance with the times, nor the resolve for well-being and development were other than a firm decision in an undertaking which would take us without fail to reconstructing what was good and building the best.

If with everyone's effort, the constant fervour and enthusiasm of the Spanish people, we have been able to achieve a period of peace and prosperity without precedents in our history, it is because our undertaking has been enlightened by faith in a doctrine which was centered in the Christian meaning of our tradition; a doctrine which faced with the hard test of events, has shown its capability to respond to the difficult problems which in the world of today arise as a consequence of the development of well-being and the fulfilment of social justice. This national ideational, studded with greatness and emotion, had to be based on reality so that a new Spain, open to the tendencies of the century, should be the most vigorous present expression of our past greatness and the undertaking of our country in the world of present times.

This constituted a revolution and as a national revolution we conceived it, and as such we have been completing it, delivering the country from what in other places has demanded the implacable sacrifice of generations, but it was done beyond the strength of man because we relied on this doctrine, because we had the availability of a country whose people never failed in their efforts and a legion of Spaniards to make sacrifices and who never weakened during these thirty years.

Therefore, when it is a case of facing the future, it is this historic base, these virtues, this faith, this enthusiasm which really have to be institutionalized, as it constitutes the permanent desire for peace, over and above the disagreements of mankind and their opinions,, as unfailing services to the discipline of the mother country; if this should fail, if from outside or within the country, they were able to breakdown this national morale, this desire for unity, for continuity and for service, all the institutional solutions, all the succession formulas and even the very political system in its totality, would be destroyed at its base. Consequently, we have been most careful in our fundamental Laws that the basic juridical norms should contain the legal custody of this sacred deposit of faith, the source of all the necessary strength to face the future.

A state is a system, an equilibrium of forces within and outside it, extremely complex and changeable. Thus the spirit of our Crusade has never been a spirit of regression nor of political immobility, but precisely the contrary. We constituted a Movement and nothing would be more contrary to its reason for existence than that it might become immobile or reactionary. It would be the most obtuse way of wasting an opportunity to reconquer and uplift Spain and would as a result deprive her of her energy and might.

As I said before, next to the traditional virtues of the race, which have made Spain one of the countries who have forged universal history, one has to consider the individualistic tendency of the Spanish people, the defective socio-economic structure of its society, the tendency to extremism and to radical and sectarian attitudes and the lack of stability of the political systems prevailing in the West. On the other hand, abstract political formulae are not worth while, they need to take root in the very substance of the matter to be of any value.

Every nation needs to find the political system adequate to its temperament. A country which is unable to find its own political system, can be said to have no political system at all. The effort which we have been developing in Spain has been for the purpose of finding our own political system, since the alien ones, so many times tried out, have been practically sterile and worthless. This is the common undertaking which we have been preparing and which has had to be done little by little like all things which should be lasting.

The ability of our political movement has been to perceive for the past thirty years that we were faced with a new era, although since then the general political process may have been accelerated; that the capitalist society, liberal and individualistic, notwithstanding its resistence, should have given way to a society wherein work should be the dominating factor. The principle of social justice which we proclaim is now hardly discussed, except as it affects its practical forms of application and generalization, and not even the greatest human progress imaginable can exclude the importance of man as spokesman of eternal values, a fact which from the beginning we defined.

No system, no matter how perfect it is, would be able to justify itself without a suitable political action, which cannot exist without a scheme or ideation to define it. Dialogue is the

basis of politics, but not the anarchical and artificial dialogue of parties, mere substitutes of the true national values, but the dialogue of the faithful representatives of such values. The diversity of thought in politics, as inevitable as convenient, has to accept and respect a common denominator, a single field and the rules of the game, without which politics become a condition completely undermined by civil war, and in this respect we have a living example in what Spain has undergone during more than one hundred years.

So that the necessary foresight for the future shall exist, a continued political action is required, supported by the people, for the purpose of insuring historical development and the increasing progress of the mother country, capable also of avoiding a repetition of the causes and conditions which carried Spain to the sacrifices necessary for survival. It is not a question of an urgent need, but of providing for the future. Today, and for many years, stability is insured. The nation enjoys excellent public health. Its social progress and its development are undeniable. No other nation has enjoyed a more eminently good political situation. The generations which form the nation are composed by those who encountered and suffered the red power and by the militants of the Crusade, who know what it cost them to conquer peace. And if this were not sufficient, we can depend on the joint assistance of the people and with our Armies and the forces of public order, faithful guardians of the peace.

Precisely because we are strong we can do without antibiotics and grant ourselves certain concessions which, if at first sight might produce astonishment, give us the temperature of the country and allows us to discover how the everlasting enemies of our internal peace are conducting themselves. Never, not even in the worst days of the fateful immediate past, conditioned to the rythm of an evolution in which each stage required maturity for the security of forging the next, did our faith ever fail nor our decided intention that the régime, permanently open, should adopt continuous and operating improvements.

In return for the confidence you have placed in me and which you have so many times and in such an efficient manner affirmed, I have devoted my whole life to serving and making possible a political order of unity, of authority, of justice and of progress. But the instauration of this social and political order

goes beyond the life of man and even of generations. Our National Movement holds, with regard to the instauration of a secular tradition and honest attempt to interpret the Christian ideals of our people, several fundamental elements of permanent value, which must be the basis of our legislation; and others historical and related, which must be adapted to the realities and needs of each moment and, thus, flexible institutions are necessary adaptable to the inevitable changes and all this with the full consent of the people, for whose common good we have laboured and must continue doing so.

Words have never worried us but deeds. In politics words come easily: freedom, authority, fraternity, rights, progress, justice and so successively they can be combined in many ways in eloquent speeches. Our parliamentary archives are full of them, but one must read at the same time the rest of the records for those years. It is possible to speak of democracy and subsequently each one can interpret it in their own way: liberal democracy, parliamentary, popular, socialist, directed, governed, etc. But what is difficult is to give a country at a given moment the reality of a better economy, of a more real social justice, of a more effective participation, of true principes, of a greater culture, of an experienced law or an organic democracy. These deeds and not those empty words, are the real, the unquestionable truth of our laws and our institutions.

Democracy, which well understood, is the most treasured civilizing legacy of Western culture, appears at each epoch linked to concrete circumstances which are solved by political formulas and others, throughout history. There cannot be a democracy without well-being; there is no true freedom without the people being able to satisfy moral and material needs; there is no authentic representation without true citizenship since man and the natural units of society must make themselves felt before the State whilst absolute masters of themselves, the only way in which the State can keep order to the advantage of justice, without imposing obligations on the pretext of liberating one and all from other artificial disciplines.

Parties are not an essential and permanent element without which democracy cannot exist. Throughtout history there have been many democratic experiences which have not known the phenomenon of political parties these being, in any case,

a relatively recent experience, arising from situations and the decomposition of the organic links of trational society.

Once the parties become platforms for class warfare and in disintegrators of national unity, political parties are not a constructive nor tolerable solution for preparing the way for a true, orderly and efficient democracy in Spain. But the exclusion of political parties in no way implies the exclusion of legitimate differences of opinion, of a critical analysis of the solutions of Government, the public formularization of programmes and measures tending to improve the running of the community.

Throughout these years we have been establishing in a propressive and judicious manner, a system which will permit the State to function without oppressing individuals nor the natural intermediary groups; but on the contrary, potentializing all their possibilities. Our dogmatic principles are comprised in the Law of 1958, our basic rights and guarantees in the Statute Law of the Spanish People (Fuero de los Españoles) of 1945; our hopes and wishes for social justice in the Labour Law of 1938. These laws, which we might denominate the dogmatic part of our institutional regulations, are complemented by an organic part integrated by the Law creating the Spanish Cortes (Parliament) of 1942 (revised in 1945 and regulated on three occasions, the last in 1957), the Law of National Referendum of 1945 and the Law of Succession to the Headship of State of 1947.

This brief enumeration of our fundamental Laws is sufficient to be able to observe two things: the first, the fortunate circumspection with which we have tried, in the midst of the incredible circumstances of these thirty years, not to compromise the future at the same time as we were preparing its foundations; the second, the suitability of proceeding now, on the one hand, to revise those provisions in view of the experience of these years and of our increased possibilities and, on the other, to give a new and decided step towards the objective point, complementing it with an organization which can function under any circumstances which may arise in the years to come.

It is clear that neither the one nor the other leads to the opening of an unnecessary constituent period; on the contrary, it means ripening what we already have, to bring out the conclusions resulting from all our experience for the purpose of institutionalizing them and improving them as far as possible;

it is a case, in fact, of following our course, the one which has saved Spain, and continuing it whatever events may take place and notwithstanding all the snares.

I will begin by referring to all the adjustments in the laws already promulgated which I consider necessary. There is nothing to say on the Law of Principles since these are, due to their very nature, permanent and unchangeable, as well as the basis of our legitimacy. But for the purpose of performing them in the most perfect manner, a few finishing touches to the said Laws are convenient.

The Labour Law was the first of our fundamental laws. I cannot recall without emotion the moments in which it was proclaimed. It was in the times, which few can now remember, in which Spain risked everything in a struggle where the enemy across the way was not really the Spaniards who were fighting, but the ideas and interests of the International Brigades which had them under their grip. It had to be made absolutely clear that we were not fighting for any particular class nor for an antiquated vision of the old Spain. We were desirous, as much as anybody else, for a modern, social, industrial and progressive Spain, wherein all workers should have a befitting place, without any party subjections nor abusive treatment by the employer, nor trade unions sabotaging the national produce, without hatred or animosity, a Spain impregnated with economic efficiency and social justice. From the outset we spoke the truth to the Spanish people, to our heroic soldiers from the fields and villages and also from the liberated cities, and even to those on the other side who had been misled, we told them what we were fighting for, our reality, not just programmes nor words, but the excellent installations of the Sickness Insurance, social welfare institutions, Labour Universities, exemplary social legislation, the peace and prosperity of the working world which Spain had never enjoyed previously. I well know that there are still goals to be conquered; I never fail to remind Spaniards of the need for a more strict national social conscience and a greater responsibility in handling the public and private instruments confided to us, wich are not for our pleasure or family luxuries, but for the national community. But it is not less true that social progress needs to follow the same course as economic development; that the responsability which I recalled before applies to all, that the work in hand should be loyally undertaken because if it sinks,

it sinks with all, and the same would occur with a national economy threatened with inflation and inefficiency.

Thus, the Labour Law, a veritable Magna Charta of social justice in Spain, maintains in its ideation all its strength. I am sure that many of these axioms have already been attained to a great extent, but its utterances are now out of date and need to be revised. The same happens in respect of the enunciation of the trade union organization wherein, in these years of peace, new initiatives have gradually arisen which have to be developed, fully in accord with the reading of the social doctrine of the Church contained in the most recent papal and conciliary documents.

Consequently, the exposition of motives and several statements of the Labour Law are being newly drafted without compromising the future, whilst awaiting a new trade union Law which will in time be submitted to your consideration for the purpose of developing some of these fundamental precepts.

The Statute Law of the Spanish People (Fuero de los Españoles) does not need a substantial reform. Its meaning, based on Christian principles, equalized by the idea of the common good, is permanent; its concrete definition of the rights and duties of citizens and of the groups has turned out to be a fruitful base for the progressive expansion of the corresponding organic laws, some of which have already been promulgated. It has only been necessary to reconsider Article 6 regarding religious freedom, for the purpose of adapting it to the present doctrine of the Church brought to date at the II Vatican Council.

This justifies the new draft of the said article which has been approved by the Holy See and which is contained in the Law. An efficacious juridical protection is foreseen for this civil right, at the same time as zealous care is taken of our cherished catholic devotionalism, which we will protect and encourage with the equity which it is the duty of governors to impart, in accord with the ecclesiastical hierarchy, in keeping with the conciliary norms, both with regard to the exent of this right as in the limits of public order within which, according to the Council itself, the exercise of this right should revolve.

The Spanish Cortes (Parliament) created in 1942, reformed in 1945 and the subject of an important regulating amendment in 1957 have been, thanks to you and your zeal and competence, to your loyalty to the Nation and to the legitimate interests

represented by each one of you, one of the fundamental levers of our legislative evolution in its most ample sense. Your record of services is truly extraordinary and exemplary on account of the number of laws which have been elaborated, because of your valuable interventions and the equilibrium which has always presided your work. But its fundamental Law, drafted in the difficult moments of the second world war, should now be adapted to present times, within the same essence in which our traditional institution was re-established. The Spanish Cortes, more ancient than any others, were always an organic body representing society. Within the Cortes the ramifications of a social complex body are at work throughout the length and width of a varied geography and cover a great diversity of social functions, so that all of them will have a proportionate and just say at the hour of discussing the important juridical, economic, social and cultural problems of the Nation.

Therefore in the revised draft of Article 2 of your Law, the representation of the trade unions appears as the basic foundation wherein all national economy problems meet: the geographical representation of the municipalities and of the provinces and family representation which now also obtains at this level the part corresponding to it, with the important innovation that equally men and married women can participate, since it is the important task of the latter to prepare the next generation and the administration of national consumption.

Side by side with these three basic groups of our representational doctrine, all of them of an elective nature, other legitimate representations of the cultural and professional world and of the highest political and administrative functions, continue to participate, whilst at the same time a notable reduction is made —in any case necessary— of those personalities to be nominated bearing in mind very special and relevant duties and experiences at the service of Spain. Also, the Executive Board of the Cortes is made elective and other articles are perfected for the purpose of leaving no doubt as to the autonomy of the Chamber and its decisive influence on the whole political process of the Nation.

The Law of Succession to the Headship of State had the double result of determining the nature of our Régime, avoiding speculations tending to a schism, and delivering us from the risks deriving from the contingencies of daily life. It also gave

rise to the establishment of key institutions such as the Council of Regency, the Council of the Realm, and the Regency within a balanced mechanism which, if they had existed in other times, would have avoided the serious successive crises which on more than one occassion have taken place during our past history. The Law of Succession, lastly, was a splendid occasion to try out the efficacy of the National Referendum giving the electorate its full adhesion to what had been done in Spain throughout ten successive years and thereby providing a denial to foreign accusations regarding the lack of stability of the Régime and ratifying their trust in the National Movement, its institutions and its men.

Nevertheless, certain articles of the said fundamental Law need some amendments for the purpose of avoiding elucidation problems which might arise in theory or in practice. The Council of the Realm, key accessory to the State and, as I shall later mention, also of the new Organic Law of the State, needs enlarging at the base with a view to perfectioning its representativeness and strengthening its now extended competence.

On the other hand, the required prevision is needed not only in respect of the guarantees and proceedings of the first succession but, also, of those which are to follow once the normal course is restored.

With this reference to the necessary changes in the old laws, the field is clear for the purpose of disclosing the contents of the new Organic Law of the State, which completes our new institutional cycle, although it is still open to subsequent and possible improvements or adjustments, if they should become necessary. Because we do not believe that the Constitution is a pure and simple legacy of the past, the determining product of history, the result of events or doctrines accepted by our forbears, although we may keep tradition alive in so far as it is related to the historical achievements of living principles. Neither do we accept a rationalist view which attempts to offer us a universal and abstract model of institutions, valid for all countries, irrespective of their social structure and their cultural way of life, as I have already indicated to you. In the face of both attitudes, which confronted each other tragically in Spain from 1808 to 1936, we must continue cautiously with our new open order and fundamental laws based on the knowledge of the past and bearing in mind the future which we can only

partly foresee. For this very reason we have not attempted improvised joint decisions, neither have we abstained from building, little by little, an institutional edifice which will not spend itself at the same time as man. We have followed a prudent evolution without forgetting that the life of countries is measured by centuries. On giving this decisive step, which to a certain point, puts an end to a period, we do not close the door to subsequent modifications and complements, but these will have to be made along the established course and with the necessary guarantees so as to avoid dangerous improvisations.

In it you will see an organic regulation of all our institutions, capable of functioning like an organic system under any of the situations which it is possible to foresee. You will observe that besides bringing up to date all these institutions which have been created during the period of twenty years, from 1938 to 1958, new mechanisms and guarantees are outlined. In accord with our Catholic sense, special consideration has been given to the improvements of the doctrine of the Church; an ample democratization of the political process is taking place in the reformed composition of the Cortes, of the National Council and of the Council of the Realm and of their renovated faculties; improvements are being made to the already very advanced legal order of the provisions connected with the exercise of high advisory and control bodies and of a most ample means of appeal of "contrafuero".

The National Movement can very well be defined both as mother of our principles and stimulator of political expansion within an ordered concurrence of criteria. A balanced system is established for the primary organs of the State and their reciprical relations ;the successory provisions are perfected and clarified. A just executive power is established headed by the President of the Government, who is entrusted with the political and administrative direction of the country.

The Cortes fully assume the legislative and controlling function and through a Council of the Realm, in which the Cortes are integrated to a great extent, intervene in the most important nominations. The Armed Forces take on the task of guaranteeing security and order, as well as the unity and independence of the Nation. Adequate measures are provided for as protection against serious emergencies. Local Administration in given

adequate consideration as befits the natural realities and basical structures of the community.

These are, for all I know, the characteristics of the fundamental Law which the President of the Spanish Cortes is now going to read.

(Following, H. E. Don Antonio Iturmendi, President of the Cortes, read the draft of the Organic Law of the State, previously distributed to the Attorneys.)

FINAL WORDS

I do not believe that on this historical occasion, following the reading of the new Organic Law of the State by the President of the Cortes, I need to invoke my already long experience in Government and my continued services to the Nation. My whole life has revolved at the head of its undertakings, either in bellicose and victorious achievements during the first half of my life, or in peaceful actions or in Government at the service of the public good, during the past twenty-seven years. Along the years of my dilated life and in my constant anxiety for service, I have always been careful to exhaustively observe and indefatigably analyze all important world tendencies which might affect our country. On this basis and wishing to complete the fulfilment of my duty in these decisive years for the Nation, and in view of the usefulness of the full ordinance of our institutions for the stability, development and well-beink of the country, who shall no longer have any reason for anxiety in the future due to the careful and cautious prevision for the same contained in the said laws; fully conscious of my responsibility before God and before history, and making use of the powers conferred upon me by the Laws of 30th January, 1938, and 8th August, 1939, I request your concurrence or agreement with regard to the present draft of Organic Law which I desire to submit for final approval at an early National Referendum.

III. FUNDAMENTAL LAWS OF THE STATE

The Organic Law of the State (1/1957) of 10th January [*Boletin Oficial del Estado* (Official State Bulletin) No. 9, of 11th January] established in its Fourth Transitory Disposition that "within a period of four months as from the promulgation of the present Law, there shall be published the revised texts of the Fundamental Laws, which shall contain the amendments referred to in the additional Provisions of the present Law, after their sanction by the Council of the Realm and their debate by the Council of Ministers".

The fundamental character of the Laws to be revised and the permanent nature and unalterability of the principles that inspire them, as proclaimed by Law on 17th May, 1958, and reiterated in the Organic Law of the State, demand that the task of revision must be limited to substituting in the Fundamental Laws the texts ammended by the additional Provisions of the Organic Law of the State, deleting them in the revised draft of said Law and, consequently, reflecting in the exposition of motives of the Fuero de los Españoles (Statute Law of the Spanish People), of the Law of the Cortes and of the Law of Succession, the amendments that have been effected in the particular section.

Finally, the Fundamental Laws have been arranged systematically and not in the chronoligical order of their promulgation.

In virtue of the fulfilment of the requirements of the aforecited Transitory Regulation, the sanction of the Council of the Realm, and the debate of the Council of Ministers, at their session of the 14th day of April.

I RESOLVE:

Article One.

That the appended revised texts of the Fundamental Laws of the Kingdom be approved.

Article Two.

That the Fundamental Laws of the Kingdom continue without interruption during the entire period of their enforcement, in the form contained in the Revised Texts, there being derogated whatever dispositions there may be in opposition to the provisions established in said Laws.

I so resolve by the present Decree given at El Pardo on the twentieth day of April nineteen hundred and sixty-seven.

FRANCISCO FRANCO

Witnessed by:
LUIS CARRERO BLANCO
Under-Secretary of the
Presidency of the Government

1. LAW ON THE PRINCIPLES OF THE NATIONAL MOVEMENT

of 17th May, 1958

I, FRANCISCO FRANCO BAHAMONDE, CAUDILLO OF SPAIN.

Mindful of my responsability before God and before History and in the presence of the Cortes of the Kingdom, promulgate the following Principles of the National Movement, as communion of Spaniards dedicated to the ideals that gave birth to the Crusade:

I

Spain is a unit of destiny on a universal plane. Service to the unit, to the greatness and liberty of the country is the sacred duty and the collective task of every Spaniard.

II

The Spanish nation regards as a badge or honour its respect for the Law of God, according to the doctrine of the Holy Catholic, Apostolic and Roman Church, the one true and inesperable faith of the national conscience, which inspires the legislation of the country.

III

Spain, the root of a great family of peoples, whose ties of brotherhood are indissoluble, aspires to the restoration of justice and peace among nations.

IV

The unity between the peoples and the domains of Spain is intangible. The integrity of the country and its independence

are the supreme exigencies of the national community. The Armed Forces of Spain, the guarantee of her security and the expression of the heroic virtues of her people, must possess the strength necessary for the better service of the country.

V

The national community is founded on man, the bearer of eternal values, and on the family, the basis of society; but individual and collective interests must be always subordinate to the common good of the Nation, constituted by generations past, present and future. The Law upholds in equal measure the rights of every Spaniard.

VI

The natural entities of social life: the Family, the Municipality and the Trade Union, are the basic structures of the national community. The various institutions and corporations which meet the needs of society in general must be protected, so that they may participate efficaciously in achieving the ends of the national community.

VII

The Spanish people, united by Law and order, cognizant of the postulates of authority, liberty and service, constitute the National State. Their political system is, within the immutable principles of the National Movement and the provisions of the Law of Succession and the other Fundamental Laws, a traditional, Catholic, social and representative Monarchy.

VIII

The representative character of the political system is the basic principle of our public instituions. The participation of the people in the legislative and other functions of general interest shall be implemented through the family, the municipality, the Trade Union and other organically representative bodies recognized by law for this purpose. Any political organization

whatever outside this representative system shall be deemed illegal.

Every Spaniard has the right of access to public office according to his merit and capacity.

IX

Every Spaniard has the right to: impartial adjudication, which shall be free for those lacking economic means; a general and vocational education, which shall never be denied for lack of material means; the benefits of social security and assistance, and an equitable share of the national income and fiscal levies. The Christian ideal of social justice, reflected in the Labour Law, shall inspire the politics and the laws of the nation.

X

Work is regarded as the fount of hierarchy, duty and honour for the Spanish people, and private property, in all its forms, as a right conditional on its social function. Privae initiative, the foundation of economic activity, must be stimulated, channelled and, if necessary, subsidized by the State.

XI

Commercial enterprise, the association of men and means geared to production, constitutes a community of interests and a unity of purpose. The relations between the members of the commercial firm must be based on justice and on mutual loyalty, and economic values shall be subordinate to those of a human and social order.

XII

The State shall endeavour, by all the means at its disposal, to perfect the physical and moral health of the people, and to ensure for them the highest standards of working conditions; to stimulate the economic progress of the Nation with improvements in agriculture, the expansion of irrigation projects and agrarian reform; to direct the most equitable employment and distribution of public credit; to safeguard and promote the pros-

pecting and exploitation of the mineral resources of the country; to intensify the process of industrialization; to support scientific research; and to protect maritime activities, according to the needs of the entire maritime population and the executive department of the Navy.

In virtue of which, I resolve:

Article One

The Principles contained in the present decree, the synthesis of those inspiring the Fundamental Laws legalized by the Nation on the sixth day of July nineteen hundred and forty-seven, are, by their very nature, permanent and unalterable.

Article Two

All organs and authorities shall be bound to the strictest observance of these Principles. The oath required for investiture with public office shall refer to the text of these Fundamental Principles.

Article Three

All laws and dispositions of whatever nature that injure or defame the Principles proclaimed in the present Fundamental Law of the Realm shall be null and void.

2. STATUTE LAW OF THE SPANISH PEOPLE
(Fuero de los Españoles)

of 17th July, 1945, amended by the Organic Law of the State of 10th January, 1967

I, FRANCISCO FRANCO BAHAMONDE, CAUDILLO OF SPAIN, HEAD OF STATE AND COMMANDER-IN-CHIEF OF THE ARMED FORCES OF THE NATION:

Whereas the Spanish Cortes, as the highest organ of participation by the people in the affairs of the State, have, in accordance with the law of their creation, drawn up the Fuero de los Españoles (Statute Law of the Spanish People), the fundamental text defining the rights and duties of the Spanish people and protecting their guarantees; and bearing in mind, as is the case in the Labour Law, that its principal provisions verify the permanent value of the concept that inspires them and that a large number of its declarations and precepts constitute a faithful adherence to Catholic social doctrine, recently brought up to date by the II Vatican Council and, finally, in view of the amendment introduced in Article Six thereof by the Organic Law of the State, approved subsequent to a national referendum, for the purpose of adapting its text to the declaration of the Council on religious freedom, promulgated on 1st December, 1965, which exacts explicit recognition of this right, in accordance with the second of the Fundamental Principles of the Movement, which stipulates that the doctrine of the Church shall inspire Spanish legislation.

I hereby resolve the following:

Article

The Fuero de los Españoles, the text of which appears hereinafter, is hereby approved, with the character of a Funda-

mental Law prescribing the rights and duties of the Spanish people.

PRELIMINARY TITLE

Article One

The Spanish State proclaims as the ruling principle of its acts respect for the dignity, the integrity and the liberty of the human person, recognizing man, the bearer of eternal values and the member of a national community, as the possessor of duties and rights, the exercice of which duties and rights guarantees in an ordely manner the common good [1].

TITLE I

DUTIES AND RIGHTS OF THE SPANISH PEOPLE

CHAPTER I

Article Two

All Spaniards owe faithful service to their country, loyalty to the Head of State and obedience to the laws of the nation [2].

Article Three

The Law protects in equal measure the rights of every Spaniard, without preference in respect of classes and without favour in respect of persons [3].

Article Four

All Spaniards have a right to the respect of their personal and family honour. Whosoever offends against it, whatever his condition, shall bear the responsibility [4].

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[1] The entire Spanish juridical system is based on this principle.

[2] See Law on Fundamental Principles, I. The Spanish juridical system is based on this principle.

[3] See law on Fundamental Principles, V & IX. The Spanish juridical system is based on this principle.

[4] In respect of personal and family honour, Title X of the existing Penal Code, revised by Decree of 28th March, 1963, covers offences against honour.

Article Five

Every Spaniard has the right to receive education and instruction, either in the family home, or in private or public centres, according to his free choice. The State shall ensure that no talent shall be neglected for lack of economic means [5].

Article Six

The profession and practice of the Catholic religion, which is the religion of the Spanish State, shall enjoy official support. The State shall assume the responsibility of protecting religious freedom, which shall be guaranteed by an efficacious juridical machinery, which, at the same time, shall safeguard morals and public order [6].

Article Seven

Bearing arms in the service of their country is a mark of honour for the Spanish people.

All Spaniards are obliged to render this service when called upon to do so within the provisions of the Law [7].

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[5] See Law on Fundamental Principles, IX. Decree 193/1967, of 2nd February, prescribes regulations governing obligatory provisions and grants (Articles 12 and 1().

The Law on Educational Grants of 19th July, 1964, recognizes, in Article 2 thereof, as intitled to educational grants "every Spaniard morally and intellectually fit to undertake studies, and especially, those lacking the economic means necessary to pursue their profession".

Law 45/1960, of 21st July, created the National Fund of Promoting the Principle of Equality of Opportunity.

[6] See Law on Fundamental Principles and the Law regulating the excercise of civil rights and religious freedom, of 26th June, 1967.

Formerly, non-Catholics only had the right of not being molested for their religious beliefs, and any external manifestations other than those of the Catholic cult were not allowed; now the State guarentees the defence and protection of religious freedom, with the ruling of the II Vatican Council.

The Head of State, in his address on the occasion of presenting the Organic Law, pointed out that the new text of this article had received the approval of the Holy See.

The recognition of the Spanish State as of the Catholic confession was stipulated in the *Fuero de los Españoles* of 1945, Article 6.

[7] Regulation on Recruitment for Army of 6th April, 1943.

Article Eight

By law, and in general terms, personal loans as demanded by the interests of the Nation and public needs may be requisitioned [8].

Article Nine

The Spanish people shall contribute to the support of the public debt according to their economic capacity. No one shall be obliged to pay tributes that have not been established by law passed in the Cortes [9].

Article Ten

All Spaniards have the right to participate in public functions of a representative nature, through the family, the municipality and the Trade Union, without prejudice to other forms of representation as established by law [10].

Article Eleven

All Spaniards shall be eligible for public office in accordance with their merit and capacity [11].

Article Twelve

Every Spaniard may express his ideas freely provided they do not attack the fundamental principles of the State [12].

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[8] See Law on Fundamental Principles, IX.
Articles 564, 565, 567 and 569 of the Law of Local Government, complete revised text of 24th June, 1955.

[9] See Law on Fundamental Principles, IX.
The General Tax Law, of 28th December, 1963, covers this principle in Articles 2 and 3, stipulating that the primary authority for establishing taxes is exclusively that of the State, and it shall be exercised by law passed in the *Cortes* (Art. 2). On the other hand, Article 3 stipulates that the disposition of taxes must be based on general principles and the equitable distribution of tax liabilities.

[10] See Law on Fundamental Principles, VIII.

[11] See Law on Fundamental Principles, VIII.
Law of State Civil Servants, of 7th February, 1964, especially Article 30. Law on Women's Rights, of 22nd July, 1961.

[12] According to Article 3 of the Press and Printing Law, of 18th March, 1966, the Administration cannot apply prior censorship nor insist on obligatory consultation except in exceptional cases and in time of war, as expressly stipulated in the laws.

Article Thirteen

Within the territorial limits of the nation, the State guarantees the freedom and the secrecy of correspondence [13].

Article Fourteen

The Spanish people have the right to establish their residence freely within the territorial limits of the nation [14].

Article Fifteen

No one may enter the domicile of a Spaniard or search said domicile without his consent, unless it be by mandate of the competent authority and in the cases and in the manner established by law [15].

Article Sixteen

Spaniards may gather together and associate freely for lawful purposes and in accordance with the stipulations of the law. The State may create and maintain the organizations it deems necessary for the fulfilment of its ends. The basic norms, which shall become law, shall co-ordinate the exercise of this right with that recognized in the first part of this Article [16].

Article Seventeen

The Spanish people have a right to juridical security. All the organs of the State shall act in accordance with a hierarchic

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[13] Article 192 of the existing Penal Code typifies the offence of violation of correspondence.

The postal ordinance, approved by Decree of 19th, 1960, guarantees in Article 14 thereof the freedom, secrecy and inviolability of correspondence. Similarly, the Regulation on Postal Servicies, approved by Decree of 14th May, 1964 (Arts. 26, 27 &28) covers this guarantee.

[14] Article 189 of the Penal Code.

[15] Law on Public Order, Article 11, and Penal Code, Articles 191 and 490.

[16] Law of Association, of 24th December 1964, and supplementary norms, approved by Decree of 20th May, 1965.

order with pre-established norms, which may not be arbitrarily interpreted nor altered [17].

Article Eighteen

No Spaniard may be arrested except in the cases and in the manner prescribed by law.

Within seventy-two hours, any person under arrest shall be set free or delivered to the judicial authorities [18].

Article Nineteen

A person can only be condemned in virtue of a law in force before the commission of the offence, by the sentence of a competent Tribunal and after the hearing and defence of such a person [19].

Article Twenty

No Spaniard may be deprived of his nationality except for the crime of treason, as defined in the penal laws, or for entering the military service or assuming public office in a foreign country against the express wish of the Head of State [20].

Article Twenty-one

All Spaniards may direct individual petitions to the Head of State, to the Cortes and to the authorities.

Corporations, civil servants and members of the Armed Forces and Institutes may only exercise this right in accordance with the dispositions governing same [21].

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[17] Articles 23, 26, 27, 28 & 30 of the Law on the Juridical System of the Administration of State, of 26th July, 1957.

[18] Article 12 of the Law on Public Order, of 30th July, 1959. Local Government Law of 24th June, 1955, Article 263. Article 47 of the Decree of Governors, of 10th October, 1958.

The Penal Code typifies the offence of unlawful arrest in Articles 181 and 480-483 thereof.

[19] This principle of penal legality is outlined in the existing Penal Code, specifically in Article 2 thereof.

[20] This matter is expounded in Article 23, Nos. 1 and 2 of the Spanish Civil Code.

[21] Law on the Right of Petition, of 22nd December, 1960. Military personnel are subject to the provisions established in Decree 93/1962, of 18th January.

CHAPTER II

Article Twenty-two

The State recognizes and protects the family as a natural institution and the foundation of society, with rights and duties anterior and superior to every positive human law. Matrimony shall be indissoluble.

The State shall give special assistance to large families [22].

Article Twenty-three

Parents are obliged to feed, educate and instruct their children. The State shall suspend the exercise of the patria potestad (rights of paterfamilias) or withhold such privilege from those who do not exercise it honourably, and shall transfer the guardianship and education of minors to those qualified by law to undertake this duty [23].

CHAPTER III

Article Twenty-four

All Spaniards have the right to work and the duty to occupy themselves in some socially useful activity [24].

Article Twenty-five

Labour, by virtue of its essentially human condition, cannot be relegated to the material concept of merchandise, nor be the object of any transaction incompatible with the personal dignity of the worker. It is of itself an attribute of honour and merit sufficient to demand the protection and assistance of the State [25].

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[22] Article 10 of this Law and annotation to paragraphs 2 and 3 of Declaration XII of the Labour Law.

Law on Support of Large Families, of 13th December, 1943, and Regulation for its application, of 31st March, 1944.

Article 42 of the Civil Code on Matrimony.

[23] Regulated by the Civil Code, Articles 155 and 171, and by the Law on Primary Education, of 2nd February, 1967 (Article 55).

Decree of 11th June, 1958, which approves the revised text of legislation on protection of minors.

[24] See Labour Law, Declaration I, 2 & 8.

[25] See Labour Law, Declaration I, 2.

Article Twenty-six

The State recognizes the commercial firm as a community contributing technical skill, labour and capital in its various forms, and supports, as a consequence, the right of these elements to participate in the benefits. The State shall ensure that relations between these elements be maintained on strictly equitable lines and in a hierarchy that subordinates economic values to human values, to the interests of the Nation and to the demands of the common good [26].

Article Twenty-seven

All workers shall be supported by the State in their right to just and adequate wages, at least to enable them and their families to lead a moral and honourable life [27].

Article Twenty-eight

The Spanish State guarantees its workers the security of aid in times of misfortune, and recognizes their right to assistance in old age, and in the event of death, sickness, maternity, work accidents, incapacity, unemployment and other contingencies that may fall within the province of social insurance [28].

Article Twenty-nine

The State shall maintain institutions of assistance and shall protect and encourage those created by the Church, by Corporations and by private individuals [29].

Article Thirty

Private property as the natural means for serving individual, family and social purposes is recognized and protected by the State.

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[26] See Labour Law, Declarations VIII & IX.

[27] See Labour Law, Declaration III.

[28] Labour Law, Declaration X.

The Law on the Bases of Social Security, of 28th December, 1965, propounded by Decree of 21st April, 1966, brings together the voluminous legislative provisions on this matter.

[29] At the present time, the agency promoting this activity is the *Dirección General de Beneficencia y Obras Sociales* (Department of Assistance and Social Welfare) in the Home Office (*Gobernación*).

All types of property are subordinate to the needs of the Nation and the common good.

Wealth cannot remain inactive, be unduly destroyed, or be applied to unlawful ends [30].

Article Thirty-one

The State shall facilitate to all Spaniards access to the types of property most intimately bound to the human person: family dwelling, inherited land, work tools and articles of daily use [31].

Article Thirty-two

In no case shall the penalty of confiscation of property be imposed.

No one may be dispossessed except for reasons of public utility or social interest, subject to the payment of appropriate indemnities, and in accordance with the provisions of the law [32].

TITLE II

THE EXERCISE AND GUARANTEE OF RIGHTS

Article Thirty-three

The exercise of the rights recognized in this Law (Fuero) cannot militate against the spiritual, national and social unity of Spain [33].

Article Thirty-four

The Cortes shall put to the vote the laws necessary for the exercise of the rights recognized in this Law (Fuero) [34].

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[30] Law on Land Administration and Town Planning, of 12th May, 1956, and Law on Enforced Expropriation of 16th December, 1954. Labour Law Declaration XII.

[31] Labour Law, Declaration XII, 2.

[32] Law on Enforced Expropriation, of 16th December, 1954.

[33] Law on Public Order, of 30th July, 1959, Article 2.

[34] Law of the *Cortes*, Article 10, Clause g).

Article Thirty-five

The provisions of Articles twelve, thirteen, fourteen, fifteen, sixteen and eighteen may be temporarily suspended by the Government, totally or partially, through a Decree-Law, which shall be limited to determining the extent and duration of the measure [35].

Article Thirty-six

Any violation of any of the rights declared in this Law (Fuero) shall be sanctioned by the laws, which shall determine the action to be taken before the appropriate juridical authority for their defence and guarantee.

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[35] Article 35, Law of the *Cortes*, Article 13.

3. LABOUR LAW
(FUERO DEL TRABAJO)

of 9th March, 1938 amended by the Organic Law of the State of 10th January, 1967

Following the Catholic tradition of social justice and the high sense of human values that informed the legislation of our glorious past, the State assumes the task of offering to every Spaniard the guarantee of a country, the means of survival and justice.

In order to achieve this aim — at the same time, fortifying the unity, the liberty and the greatness of Spain — it operates at the social level with the desire to place the wealth of the nation at the service of the Spanish people, subordinating the economy to the dignity of the human person, mindful of his material needs and the demands of his intellectual, moral, spiritual and religious life.

And in the light of its conception of Spain as a unit of distiny, it makes manifest, through the present declarations, its design that the produce of Spain, within the bonds of brotherhood that unite all its elements, should constitute a unit of service towards the strengthening of the country and for the common good of all Spaniards.

The Spanish State sets forth these declarations, which shall inspire her social and economic policy, under the precepts of justice and with the desire and determination that those who have laboured for the country constitute, by virtue of their honour, valour and work, the highest aristocracy of this national epoch. Before the Spanish people, irrevocably united in sacrifice and hope, we declare:

I

1. Work is the participation of man in production through the voluntary exercise of his intellectual and manual faculties,

according to his particular vocation, in keeping with the decorum and comfort of his life, and for the better development of the national economy [36].

2. By virtue of its essentially personal and human nature, labour cannot be reduced to a material concept of merchandise, nor be the object of any transaction incompatible with the personal dignity of the worker [37].

3. The right to work is a consequence of the duty imposed on man by God, for the fulfilment of his individual aims and the prosperity and greatness of the country.

4. The State values and exalts labour, the fruitful expression of the creative spirit of man, and in this sense, shall protect it with the force of law, giving it the highest consideration and making it compatible with the fulfilment of the other individual, family and social ends of life [38].

5. Work, as a social duty, shall be demanded, in some form or another, of every able-bodied Spaniard, and shall be considered a compulsory tribute to the national patrimony [39].

6. Labour is one of the most noble attributes of hierarchy and honour, and is sufficient in itself to demand the assistance and protection of the State [40].

7. Service is work undertaken with heroism, disinterest or self-sacrifice, with a will to contribute to the higher good that Spain represents.

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[36] This definition of work is to be found in Article 1 of the Decree of 26th January, 1944, which approves the revised text of the Law on the Contracting of Labour.

[37] See *Fuero de los Españoles* (Statute Law of the Spanish People), Article 25.

[38] With the single purpose of honouring merit in work, the Royal Decree of 22nd January, 1926, created the Medal of Labour, re-established by Decree of 14th March, 1942.

The protection of labour is manifested, among other ways, through fiscal reductions; perhaps the most characteristic from is that of the general tax on the income of persons (Income Law of 8th April, 1967).

See Law on Fundamental Principles of the National Movement, X.

[39] See *Fuero de los Españoles* (Statute Law of the Spanish People), Article 24.

[40] This type of assistance is expounded in the Social Security regulations (Law of 28th December, complete text Decree of 21st April, 1956) and the provisions of the Labour Mutuality, and, in general, all the activities of the Ministry of Labour are linked with it.

See *Fuero de los Españoles* (Statute Law of Spaniards), Article 29.

8. Every Spaniard has the right to work. The execution of this right is a fundamental mission of the State [41].

II

1. The State undertakes to employ constant and effective action in defence of the worker, his life and his work. It shall limit the length of the working day to a fixed number of hours, and shall extend to labour every guarantee of a defensive and humanitarian order. In particular, it shall prohibit the employment of women and children for night work, regulate work done at home and shall liberate the married woman from the workshop and the factory [42].

2. The State shall maintain that the observance of Sunday as a day of rest is a sacred condition of labour [43].

3. The laws shall make obligatory the observance of religious festivals and holidays proclaimed by the State, without loss of retribution, the technical necessities of the firms involved being taken into account [44].

4. The 18th July, marking the beginning of the Glorious Rising, now a national holiday, shall be considered as a Festival in honour of the Exaltation of Labour.

5. Every worker shall have a right to an annual paid vacation so that he may have a period of rest, and the institutions

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[41] See *Fuero de los Españoles,* Article 24.

[42] The Law on the Maximum Number of Working Hours, of 9th September, 1931, is still in force. It fixes, as a maximum, a working day of eight hours or 48 hours a week, in accordance with the Washington Agreement of 29th October, 1929. This general norm is applied to the different fields of endeavour by respective Labour Regulations.

The work of women and children is regulated in Articles 162-179 of the Law on the Contracting of Labour; Article 4 of the Law on the Rights of Women, of 22nd July, 1961, and Decree of 26th July, 1957, which indicates the different types of work prohibited for women and children. Work done at home is covered by Articles 116-121 of the Law on the Contracting of Labour.

See Law on Fundamental Principles of the National Movement.

[43] The Law on Sunday Observance, of 13th July, 1940 and Regulation of 25th January, 1941.

[44] The official calendar of holidays is contained in the Decrees of 26th December, 1957, 10th January, 1958, and 24th September, 1958. The Ministry of Labour publishes every year the calendar of local holidays.

responsible for the fulfilment of this provision shall organize themselves accordingly [45].

6. The necessary institutions shall be created to give workers access to all the cultural, entertainment, military, health and sports facilities during their leisure hours [46].

III

1. Wages shall be the minimum necessary to enable the worker to lead a moral and honourable life [47].

2. A family allowance shall be established through the appropriate agencies [48].

3. The standard of living shall be raised gradually and rigidly for the workers, as allowed by the higher interest of the Nation [49].

4. The State shall fix the minimum bases for the Administration of labour, and the relations between the workers and the firms employing them shall be subject to these provisions. The prime considerations of such relations shall be the contribution of labour and remuneration therefor, as well as the relationships of the various components of the firm, based on

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[45] The general regulation on vacation is contained in Article 35 of the Law on the Contracting of Labour.

[46] Articles 77 foll. and 91 foll. of the Order of 9th March, 1946, approving the Statute on trade union assistance.

[47] The present minimum salary, according to Decree 2342/1967 of 21st September, is Ptas. 96 a day.
See *Fuero de los Españoles*, Article 27.

[48] The first Law on Family Allowances was promulgated on 18th June, 1938.
The family bonus was introduced by Bank regulation and was generally applied by Ministry of Labour Order of 29th March, 1946, amended by another Order of 24th January, 1956. Both were revised by the Law of 14th April, 1962, which created a unified system of family assistance recognized in Article 44, point 11, of the law of Social Security, of 28th December, 1963.

[49] Article 1 of Law of 28th December, 1963, approving the Economic & Social Development Plan, indicates its object as being "to bring about a rise in the standard of living of all Spaniards, within the realms of social justice, and encourage the evolution of liberty and the dignity of the person".

justice, mutual loyalty and the subordination of economic values to those of a human and social order [50].

5. Through the Trade Union, the State shall seek to discover whether the economic and other conditions of work are in keeping with the just deserts of the worker [51].

6. The State shall ensure the safety and continuity of labour [52].

7. The commercial firm shall inform its staff of the progress of production to the degree necessary to stimulate their sense of responsibility, according to the terms established by law [53].

IV

Handicraft — the inheritance of a glorious past — shall be promoted and protected, being the result of the complete projection of the human person in his work and a type of production divorced from both the capitalist system of mass labour and Marxist gregariousness [54].

V

1. The standards of employment in the agricultural enter-

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[50] Within the general competence of the Ministry of Labour, Article 1 of the Decree of 8th February, 1960, which approves its organic Regulation, it is the duty of the *Dirección General de Ordenación del Trabajo* (Department for the Administration of Labour), according to Article 71, "to plan, implement and develop the policy and administrative mehtods which are the functions of the State in respect of labour relations".

[51] Article 1 of the Law of 26th January, 1941, on Trade Unions. "The trade Union Organization is the only one recognized by the State as having the necessary machinery to inform the State of the aspirations and needs of the producing elements of the Nation on the economic and social plane, and is, at the same time, the vehicle through which the directives of the State are made known to the producing elements."

[52] Stability of employment is guaranteed in Article 79 of the Law on the Contracting of Labour.

Order of 31st January, 1940, approving the General Regulation on Safety and Hygiene in Places of Work. The Order of 6th February, 1961, in application of Decree of 12th January, 1961, giving norms for the drafting of Regulations governing the Internal Administration of each firm, stipulates that such Regulations shall specify the appropriate safety measures taken.

prise shall be adapted to its special characteristics and to the seasonal variations imposed by nature [55].

2. The State shall take a special interest in the technical education of the agricultural producer, training him to carry out all the activities required by each unit of exploitation [56].

3. The prices of principal products shall be controlled and re-assessed, in order to ensure a minimum profit under normal conditions for the agricultural entrepreneur and, in consequence, to demand for the workers wages that shall enable them to improve their living conditions [57].

4. Efforts shall be made to grant to each peasant family a small plot of land, which would contribute to their basic needs and keep them occupied during unemployment [58].

5. Plans shall be made for the embellishment of rural life, perfecting the rural dwelling and improving the sanitary conditions of the towns and villages of Spain.

6. The State shall ensure tenants of some stability in the cultivation of the land through long-term contracts, which shall protect them against unjustifiable eviction and shall secure for

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[53] Law of 21st July, 1962, which covers the participation of staff in the management and administration of firms falling in the category of companies. The Decree of 18th August, 1947, which creates the Jury System in Firms, stipulates that they "must be informed of the general progress of production, prospects as regards orders, supplies, materials, etc".

[54] Article 85 foll. of the Order of 9th March, 1946, creating the Handicrafts Trade Union.

[55] Law of 16th October, 1942, which establishes the norms governing the preparation of Labour Regulations. Decree of 25th March, 1955, on agricultural workers. See Law on Fundamental Principles of the National Movement, XII.

[56] There exist for this purpose the Trade Union Organization for Vocational Training, for Training in Livestock Farming (the Youth Front), and for Housing Development; the Department for the Education of Farm Workers and its National Foundation for Secondary and Vocational Education; the Department for Social Advancement in its Labour Universities; and, more specifically, the Department of Agrarian Training.

[57] This aim has guided the price policy followed by the Supplies and Transport Agency and has justified the creation of entities such as the National Wheat Board and the Commission for the Purchase of Wine Surpluses.

[58] Law of 15th July, 1952, on family patrimonies.

them the amortization of the improvements made by them on the land. It is the aim of the State to arbitrate through the appropriate channels so that, under fair conditions, the land may belong to those who work it [59].

VI

The State shall direct its greatest attention to maritime workers, providing them with adequate institutions to avoid the depreciation of their merchandise and to facilitate their access to the ownership of the articles necessary for carrying on their trade [60].

VII

A new Labour Magistrature shall be created based, on the principle that this function of justice belongs to the State [61].

VIII

1. Capital is an instrument of production.

2. The commercial firm, as a producing unit, shall dispose the elements within it in a hierarchy that subordinates instrumental factors to human factors, all towards the common good.

3. The management of the firm shall be responsible for its contribution to the common good of the national economy.

4. The profit of the firm, a fair interest on capital taken into account, shall be applied preferably to the formation of the reserves necessary for its stability, to the improvement of

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[59] Decree of 29th April, 1959, which outlines in Article 10 thereof the right of extension of farming tenancies.

[60] Organic Law, of 18th October, 1940, which created the Social Marine Institute.

[61] Decree of 13th May, 1938, on the new Labour Magistrature, whose Organic Law is dated 17th October, 1940, and whose procedure is regulated in Decree of 21st April, 1966. Decree of 9th January, 1963, approving the revised text of the Labour Process Legislation.

production, and to the betterment of the working and living conditions of the workers [62].

IX

1. Credit shall be so arranged that, besides fulfilling its purpose of developing national wealth, it shall contribute to the creation and maintenance of the small agricultural, fishing, industrial or commercial patrimony [63].

2. Integrity and trustworthiness, based on the competence and the work of the individual, shall be considered as effective guarantees for the granting of credit [64].

3. The State shall investigate all forms of usuary [65].

X

1. The social welfare authorities shall offer the worker the security of aid in misfortune [66].

2. There shall be an increase in social insurance for old age, incapacity, maternity, work accidents, ailments caused by any profession, tuberculosis and unemployment, with a view

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[62] Article 106 of the Law on Stock Companies, of 17th July, 1951, which establishes an obligatory reserve, with which the so-called extraordinary and voluntary reserves co-exist (Art. 103).

Article 53, 2, b) of the Law on Tax Reform, which grants a reduction of 90 % on the base of capital income tax in favour of the interest on the loans granted by firms to their staff for acquiring their own homes. Article 76 of the Law on Tax Reform, which treats as deductible expenses, on the general income tax of juridical associations, different items which directly contribute to the improvement of the worker's living conditions.

See *Fuero de los Españoles*, Article 26, and Law on the Fundamental Principles of the National Movement, X.

[63] Law of 2nd January, 1942 and Regulation of 11th November, 1963, on co-operatives (Decree of 16th june, 1954, on entities of agricultural credit).

[64] See Law on Fundamental Principles of the National Movement, XII.

[65] The repression of usury is covered by two aspects of the law: the civil, on the nullification of contracts on usurious loans, under Law of 23rd July, 1908 (the Azcárate Law); and the penal, through the sanctions contained in Chapter VI, Title III, Book II, of the Penal Code, revised in 1966.

[66] Law on Bases of Social Security, of 28th December, 1963.

to establishing a comprehensive insurance system. The granting of an adequate pension to aged workers shall receive prime consideration.

XI

1. National production is an economic unit in the service of the country. It is the duty of every Spaniard to protect, improve and increase it. All factors involved in production are subordinate to the supreme interests of the Nation [67].

2. Any illegal act, whether individual or collective, that seriously hinders production or attempts against it shall be punishable by law [68].

3. The fraudulent decrease of work output shall be subject to the appropriate penalties [69].

4. In general, the State shall only engage in business enterprise when private initiative is lacking, or when the higher interests of the Nation demand it [70].

5. The State, acting independently or through the Trade Unions, shall check all disloyal competition in the realms of production, as well as those activities that hamper the normal development of the national economy, and shall encourage, on the other hand, all efforts aimed at improviing the national economy [71].

6. The State regards private initiative as the source of the economic life of the Nation [72].

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[67] Law of 24th Octiber, 1939 (protecting industries of national interest) and 24th November, 1939 (on the regulating and defence of national industry).

[68] Article 232 of the Penal Code, whose text is based on law of 21st December, 1965.

[69] Law on the Contracting of Labour, Articles 60, 63, 77,b) and f); and Decree of 21st September, 1960, Article 5, sub-paragraphs 1 and 2.

[70] Law of 25th September, 1941, which created the National Institute of Industry with the ends outlined in Article 1 thereof. Article 4 of the Law on the Development Plan, of 28th December, 1963.
See Law on the Fundamental Principles of the National Movement, X.

[71] Law of 20th July, 1963, on restrictive practices of competition, which created the Tribunal for the Defence of Competition and the Agency for the Defence of Competition.

[72] Law on the Development Plan, which is binding for the public sector and merely indicative for the private.

XII

1. The State recognizes and protects private property as a natural means for the execution of individual, family and social functions. All forms of property are subordinate to the supreme interests of the Nation, whose interpreter is the State [73].

2. The State assumes the task of increasing and making accessible to all Spaniards the types of property vitally linked to the human person: the family home, the patrimony of land and the instruments or work implements needed for daily use [74].

3. The State recognizes the family as the natural nucleus and foundation of society, and at the same time, as the moral institution endowed with inalienable rights and superior to all positive law. For the greater security of its conservation and continuity, the unseizable family patrimony shall be recognized [75].

XIII

1. Spaniards, by virtue of their participation in labour and production, constitute the Trade Union Organization.

2. The Trade Union Organization is made up of a number of industrial, agrarian and public utility unions, with activities on a territorial and national scale covering all aspects of production.

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[73] Law on Enforced Expropriation, of 16th December, 1954, especially Ariticle 1; Law of 27th April, 1946 on expropriation of rural properties of social interest; Law of 3rd December, 1953, on properties manifesttly capable of improvement; Law on Land Development by the distribution of plots, of 20th December, 1952; Law of 15th July, 1954, on minimum units of cultivation, and Law of 11th May, 1959 on the enforced transfer of rural properties.

See *Fuero de los Españoles*, Article 30, and Law on the Fundamental Principles of the National Movement, X.

[74] Law of 15th July, 1952, on family patrimonies and Decree of 27th January, 1957, on protected family farm holdings; Law on Protected Dwellings, of 19th April, 1939, which created the Institute of Housing, and its Regulation (Decree of 2nd September, 1939); Law on Subsidized Housing, of 26th November, 1954, which established the first national housing scheme, etc.

See *Fuero de los Españoles*, Article 31.

[75] Law of 13th December, 1943 and its Regulation, published by Decree of 31st March, 1954.

There exist a number of fiscal and tax reductions, as well as family assistance for civil servants established by Law of 15th June, 1954.

For other workers, see Law on the Bases of Social Security and Law on Fundamental Principles of National Movement, VI.

3. The trade unions shall have the status of public corporations on a representative basis, with juridical standing and full functional capacity in their respective spheres of competence. Within these spheres, and in the manner legally established, shall be formed the associations of management, technicians and workers, organized for the defence of their particular interests, and as a free and representative medium of participation in trade unión activities and, through the trade unions, in the community tasks of political, economic and social life.

4. The trade unions are the channel of professional and economic interests for the fulfilment of the ends of the national community, and are the representatives of said interests.

5. The trade unions collaborate in the study of production problems, and may propose solutions and intervene in the regulation, vigilance and implementation of working conditions.

6. The trade unions may create and maintain agencies for research, moral, cultural and professional training, welfare, aid and other activities of a social nature of interest to the participants of production.

7. Placement bureaux for finding employment, for the worker in accordance with his aptitude and merit shall be established.

8. It is the function of the trade unions to supply the State with precise data for the preparation of production statistics.

9. The Trade Union Law shall determine the manner of incorporating into the new organization the existing economic and professional associations.

XIV

The State shall dictate the appropriate measures for the protection of national labour within the territorial limits of the country and, by virtue of labour treaties with other governments, shall seek to protect the employment of Spanish workers resident abroad [76].

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[76] The Spanish Institute of Emigration was created by Law of 17th July, 1956, amended by Decree of 23rd July, 1959, and 3rd May, 1963. There are treaties in existence ensuring Social Security and assistance to Spaniards resident in the following countries: Germany, Argentina, Belgium, Chile, France, Holland, Italy, Luxembourg, Portugal and the Dominican Republic.

XV

At the time of promulgating this Charter, Spain is engaged in a heroic military task for the salvation of spiritual values and world culture, at the risk of losing a large share of her material resources.

National production, with all its elements, must respond unselfishly to the generosity of the militant youth of the Nation and of Spain herself.

For this reason, in this Charter of rights and duties, the most urgent consideration is that the productive elements should contribute equitably and resolutely to the renewal of Spanish soil and the foundations of its power.

XVI

The State undertakes to absorb the militant youth into the ranks of labour, honour or leadership, by virtue of their right as Spaniards and their conquest as heroes.

4. THE ORGANIC LAW OF THE STATE
of 10th January, 1967

Over the past three decades, the State which came into existence on 18th July, 1936, has performed a gigantic task of reconstruction in every order of national life. Fundamental legislation has kept pace with the major necessities of the country, achieving, thanks to its gradual promulgation, the firm establishment of institutions, while at the same time preserving them from confusing rectifications, which would have been the inevitable consequence of premature decisions.

The laws so far promulgated cover the greater part of the questions dictated by an institutional system of administration. The Law on the Principles of the Movement provide the directives governing Spanish policy and serve as a permanent guide and an unalterable code for all legislative and governmental action. The Fuero de los Españoles (Statute Lew of the Spanish People) and the Labour Law define the duties and rights of Spaniards and protect the exercise of such duties and rights. The Law of Referendum submits to the consideration and direct decision of the people, the draft laws which circumstances or public interest demand. The Law of the Cortes establishes the composition and prerogatives of the highest organ for the participation of the Spanish people in the affairs of the State. And the Law of Succession contains the declaration that Spain is a political unit, constituted as a Kingdom, and creates the Council of the Realm, which must assist the Head of State in all matters and resolutions coming under his exclusive competence.

Nevertheless, the juridical vitality and the political vigour of the Regime, its ability to cope with present problems and the prospects offered by the extended period of its existence, permit and advocate the expansion and improvement of a fundamental legislation. The time has come to close the chapter on the institutionalization of the national State; to delimit the ordinary attributes of the supreme magistrature of the State upon the

fulfilment of the provisions of the Law of Succession; to determine the composition of the Government, the procedure for the nomination and retirement of its member, its responsibility and what it regards as improper; to establish the organization and functions of the National Council; to give a fundamental character to the structure of the Judicature, the Armed Forces and Public Administration; to regulate the relations between the Headship of State, the Cortes, the Government and the Council of the Realm; to determine the manner of designation, the term of office and the retirement of the Speaker of the Cortes and the Presiding Officers of the highest Tribunals and consultative bodies; and to open a juridical channel for the impugnment of any legislative or governmental act that may be detrimental to the system of Fundamental Laws.

These are the ends of the present Law, which will perfect and place the institutions of the Regime in a harmonious system, and ensure in an effective manner for the future the fidelity of the highest organs of the State to the Principles of the National Movement.

In virtue whereof, and in the exercise of the legislative faculty conferred on me by the Laws of 30th January, 1938, and 8th August, 1939, pursuant to the agreement of the Spanish Cortes adopted in plenary session of 22nd November, 1966, and with the legal and direct expression of the Spanish people, manifested by the approval of 85.50 per cent of the electorate, which represent 95.86 per cent of voters, in the national Referendum held on 14th December, 1966, I resolve:

TITLE I

THE NATIONAL STATE

Article One

I. The Spanish State, constituted as a kingdom, is the supreme institution of the national community [77].

II. The State is responsible for the exercise of sovereignty through the agencies that implement its functions.

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[77] The character of the kingdom is defined in the Law of Succession in the Headship of State, of 26th July, 1947 (Article 1).

Article Two

I. National sovereignty is one and indivisible, and is not subject to delegation or cession.

II. The institutional system of the Spanish State is based on the principles of unity of power and co-ordination of functions.

Article Three

The fundamental ends of the State are: the defence of unity, among the peoples and domains of Spain; the maintenance of the integrity, independence and security of the Nation; the safeguarding of the spiritual and material patrimony of the Spanish people; the protection of the rights of the individual, of the family and of society; and the promotion of a just social order in which all private interests are subordinated to the common good. These ends are inspirated by, and are absolutely faithful to, the Principles of the National Movement, promulgated by the fundamental Law of 17th May, 1958, which are, by reason of their very nature, permanent and unalterable.

Article Four

The National Movement, the communion of the Spanish people in the Principles cited in the preceding Article, informs, the political system, open to all Spaniards, and, for the better service of the country, promotes political life on the basis of an orderly concurrence of criteria.

Article Five

The national flag is composed of three horizontal stripes — red, yellow and red — the yellow stripe being double the width of the red.

TITLE II

THE HEAD OF STATE

Article Six

The Head of State is the supreme representative of the Nation; personifies national sovereignty; exercises supreme

political and administrative power; is vested with the National Leadership of the Movement and ensures the strictest observance of its Principles and other Fundamental Laws of the Kingdom, as well as the continuity of the State and of the National Movement; guarantees and ensures the regular functioning of the high organs of the State and the proper co-ordination between such organs; sanctions and promulgates laws and provides for their execution; exercises the supreme command of the Army, Navy and Air Force; safeguards the maintenance of public order at home and the security of the State abroad; lends his name to the administration of justice; exercises the prerogative of pardon; confers, in accordance with the law, appointments, public office and honours; accredits and receives diplomatic representatives; and performs whatever acts are required of him by the Fundamental Laws of the Kingdom.

Article Seven

The Head of State is particulary required to:

a) Convoke the Cortes in accordance with the law, as also to preside at the opening session of each legislative term and, with the agreement of the Government, to deliver the inaugural address and other messages.

b) Prorogue for the necessary period, at the instance of the Cortes or of the Government and with the agreement of the Council of the Realm, a legislative term when some grave cause may impede the normal replacement of the Deputies.

c) Submit to national referendum the Bills referred to in paragraph two of Article ten of the Law of Succession and Article one of the Law of Referendum [78].

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[78] Paragraph one of Article 10 of the Law of Succession in the Headship of State, of 26th July, 1947, enumerates the Fundamental Laws, and paragraph two stipulates that "in order to derogate or amend them, a national referendum, besides the agreement of the *Cortes*, shall be necessary".

To this list must be added the Law of 17th May, 1958, which promulgates the Principles of the National Movement, Article 30 of which states: "All laws and dispositions of whatever nature that injure or defame the Principles proclaimed in the present Fundamental Law of the Realm shall be null and void".

d) Appoint and relieve of their functions the President of the Government, the Speaker of the Cortes and other holders of high office, in the manner prescribed by law [79].

e) Convoke and preside over the Council of Ministers and the National Defence Junta when he attends their meetings [80].

f) Preside, should he think it advisable, over the debates of the Council of the Realm and of the National Council, provided that those of the former do not refer to his person or to the heirs to the Crown. In no case will voting take place in the presence of the Head of State.

g) Seek the advice and guidance of the Council of the Realm.

h) Request reports of the National Council.

Article Eight

I. The person of the Head of State is inviolable. All Spaniards shall owe him respect and obeisance.

II. All resolutions made by the Head of State in the exercise of his authority must be approved, according to the circumstances, by the President of the Government or the Minister concerned, by the Speaker of the Cortes or by the President of the Council of the Realm, any disposition that does not comply with this formality being invalid [81].

III. The persons approving the acts of the Head of State shall be responsible therefor.

Article Nine

The Head of State shall require a Law or, where applicable, the agreement or authorization of the Cortes, in the following cases:

a) To ratify international treaties or agreements which affect the full sovereignty or the integrity of Spanish territory.

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[79] See Article 14-1 and additional disposition III of this Law (Article 7 of the Law of the *Cortes*).

[80] See Article 13 of this Law.

[81] The requirement that Decrees should be signed by the Head of State and approved by the appropriate Minister, or President of the Government, in the event of their affecting various Ministries, was already covered in Article 24 of the Law of Juridical Procedure of the Administration of the State (revised text of 26th July, 1957).

b) To declare war and agree to peace.

c) To put into effect the acts referred to in Article Twelve of the Law of Succession and those that may be defined in other precepts of the Fundamental Laws of the Realm [82].

Article Ten

The Head of State shall be assisted by the Council of the Realm:

a) To propose to the Cortes those acts which, according to the provisions of the preceding article, require a law, the agreement or the authorization of the Cortes.

b) To return to the Cortes for further study a law drawn up by the Cortes.

c) To prorogue a legislative term for grave reason and for the required period.

d) To take exceptional measures when external security, the independence of the Nation, the integrity of its territory or the instituional system of the Kingdom are exposed to serious and imminent threat, giving a documented account to the Cortes.

e) To submit to national referendum Bills (draft laws) of major importance when such a referendum is not mandatory.

f) To take the other decisions for which a Fundamental Law may establish this requisite.

Article Eleven

During the absence of the Head of State from the national territory, or in case of ill health, his functions shall be assumed by the heir to the Crown, should there be one and should he be over thirty years of age, or in default thereof, by the Regency Council. In any case, the President of the Government shall give an account to the Cortes.

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[82] Article 12 of the Law of Succession establishes that "all cession of rights before mountings the throne, adbications when the successor has been designated, renunciations in any case and royal marriages, as well as marriages of immediate successors, shall be made known by the Council of the Realm and approved by the *Cortes* of the Nation".

Article Twelve

The guardianship of the royal persons not of age included in the succession, or of the incapacitated King shall be approved by the Cortes at the proposal of the Council of the Realm. The designation mut devolve upon a person of Spanish nationality professing the Catholic religion, and is incompatible with the exercise of the Regency, the Presidency of the Government or the Presidency of the Cortes.

TITLE III

THE GOVERNMENT OF THE NATION

Article Thirteen

I. The Head of State directs the government of the Kingdom through the Council of Ministers [83].

II. The Council of Ministers, composed of the President of the Government, the Vive-President or Vice-Presidents, should they exist, and the Ministers, is the organ that determines national policy, ensures the application of the laws, exercises its power to make regulations and constantly assists the Head of State in political and administrative matters [84].

III. The decisions of the Government shall always have the approval of the President of the Government or of the Minister concerned.

Article Fourteen

I. The President of the Government must be a Spaniard and shall be appointed by the Head of State from among three candidates proposed by the Council of the Realm [85].

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[83] The prerogatives of the Head of State are specified in Article 7 of this Law and, specifically in respect of the Government, in subparagraphs d) and e).

[84] The composition and competence of the Council of Ministers are specified in Titles I an II, chapter of revised text of Law of Juridical Procedure of the Administration of the State, of 26th July, 1957.

[85] The office of President of the Government as an agent of the Administration of the State was established in Law of 26th July, 1957. His faculties, as well as those of the Ministers, are specified in Chapter II of Title II of said Law. The change in the new Law refers to a reform in the nomination, the duration of the term of office, and termination of same.

II. His term of office shall be for five years. Fifteen days prior to the expiry of this term, the Council of the Realm shall submit the proposal mentioned in the preceding paragraph.

III. The office of President of the Government shall carry the restrictions and incompatibilities prescribed by law.

IV. It is incumbent on the President of the Government to represent the Government of the Nation, to direct general policy and to ensure the co-ordination of all the organs of goverment and administration.

V. The President of the Government, in the name of the Head of State, exercises the National Leadership of the Movement, assisted by the National Council and the Secretary-General [86].

Article Fifteen

The President of the Government shall retire from office:

a) Upon expiry of his term of office.

b) At his own request, once his resignation has been accepted by the Head of State, having been made known to the Council of the Realm.

c) Upon the decision of the Head of State, in agreement with the Council of the Realm.

d) Upon the proposal of the Council of the Realm, because of incapacity recognized by two-thirds of its members.

Article Sixteen

I. In the event of the death of the President of the Government, or in the event of any of the possibilities under subparagraph *b*), *c*) and *d*) of the preceding article, his functions shall be assumed by the Vive-President or Vice-Presidents, in the order established, or, should there be no Vice-President, by the Minister appointed by the Head of State.

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[86] The National Leadership of the Movement is vested for life in the persons of Francisco Franco, Caudillo of Spain, according to Transitory Disposition One, III, of this Law.

For the National Council and the Secretary-General, see Title IV of this Law.

II. Within a period of ten days, a new President shall be nominated in the manner established in Article fourteen.

Article Seventeen

I. The other members of the Government shall be Spaniards and their nomination and retirement from office shall be effected by the Head of State at the proposal of the President of the Government.

II. Their posts shall carry the restrictions and incompatibilities prescribed by law.

Article Eighteen

The members of the Government shall retire from office:

a) On the retirement of the President of the Government.

b) At the instance of the Presidente of the Government, with the approval of the Head of State.

c) At their own request, when their resignation has been accepted by the Head of State, at the proposal of the President of the Government.

Article Nineteen

Before taking office, the President and the other members of the Government, shall swear an oath of allegiance to the Head of State, in his presence, to the Principles of the National Movement and other Fundamental Laws of the Kingdom, and shall undertake to keep their deliberations secret [87].

Article Twenty

I. The President and other members of the Government are jointly responsible for the decisions taken by the Council of Ministers. Each of them shall be accountable for the acts executed by him or authorized by him in his Deparment.

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[87] Decree 2,148, of 10th August, 1963, determines the formula of the oath upon taking public office. Before taking office, the Ministers shall swear allegiance to the Head of State and to the National Regime (Article 16 of Law of 30th January, 1938).

II. The penal liability of the President and of the other members of the Government, and the civil liability for acts related to the exercise of their functions, shall be subject to the Supreme Court of Justice, in plenary session [88].

TITLE IV

THE NATIONAL COUNCIL

Article Twenty-one

As the collegiate representative of the Movement, the National Council has the following functions [89].

a) To strengthen the bonds of unity among the people and domains of Spain.

b) To defend the integrity of the Principles of the National Movement and to ensure that the transformation and development of the economic, social and cultural structure are adapted to the demands of social justice.

c) To safeguard the development and exercise of the rights and liberties recognized by the fundamental laws and to stimulate the real and efficacious participation of the natural entities and of public opinion in political affairs.

d) To contribute to the training of Spanish youth in allegiance to the Principles of the National Movement and to bring new generations into the collective enterprise.

e) To channel, within the Principles of the Movement, a contrast of opinion on political action.

f) To safeguard the permanence and standards of the National Movement itself.

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[88] The liability of the State, of its authorities and its functionaries is regulated in Title IV of the Law of 26th July, 1957, aready cited in previous notes.

[89] The National Council of the Movement was established by Decree of 19th April, 1937 and regulated by Decrees of 31st July, 1939 and 13rd November, 1947. Its specific Regulation is dated 20th December, 1942.

Article Twenty-two

The National Council shall be composed of the following Members [90]:

a) One Member elected for each province, in the manner established by the appropriate organic Law.

b) Forty Members appointed by the Caudillo from among persons who have rendered services of proven worth; upon the fulfilment of succession provisions, these forty Members shall be made permanent until the age of seventy-five, and such vacancies as may arise subsequently shall be filled by election from among three candidates proposed by this group of Members to the Plenary Session of the Council [91].

c) Twelve Members representing the basic structures of the national community:

— Four elected from among their members by the Deputies of the Cortes representing the family.
— Four elected from among their members by the Deputies of the Cortes representing the local Corporations.
— Four elected from among their members by the Deputies of the Cortes representing the Trade Union Organization.

d) Six Members appointed by the President of the Council from among persons rendering services relevant to the functions enumerated in the preceding article.

e) The Secretary-General, who shall exercise the functions of Vice-President.

Article Twenty-three

In order to carry out the functions outlined in Article Twenty-one, the National Council shall have the following duties:

a) Promoting the adjustment of the laws and general dispositions to the Principles of the National Movement and other

[90] The composition of the National Council prior to the new Organic Law of the State was determined by Decree of 3rd March, 1965, and by Decree of 22nd April, 1964.

[91] The system established allows for the maintenance of a future spirit of homogeneity through this group of Members, whose vacancies are filled by candidates proposed by the Members themselves.

Fundamental Laws of the Kingdom, exercising for this purpose the appeal of contrafuero (infringement of charter) prescribed under Title X of this Law [92].

b) Recommending to the Government whatever measures it may consider appropriate for the greater effectiveness of the Principles of the Movement and other Fundamental Laws of the Kingdom and, at all events, being apprised before submission to the Cortes, of any Bill or amendment to a Fundamental Law.

c) Bringing to the notice of the Government such reports or memoranda it may consider convenient, and executing the assignments entrusted to it by the Government, having the power, in such cases, to examine the antecedents it may consider necessary.

Article Twenty-four

The National Council shall function in plenary session and through a Standing Committee, in accordance with the requirements of its organic Law.

Article Twenty-five

The President of the Government, in his capacity as National Leader of the Movement by delegation of the Head of State, shall exercise the Presidency of the National Council and of its Standing Committee, with the assistance of the Secretary-General, to whom he may delegate such functions as he sees fit [93].

Article Twenty-six

The Secretary-General shall be appointed by the Head of State, at the proposal of the President of the Government. The office of Secretary-General shall carry the restrictions and incompatibilities prescribed by law.

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[92] The appeal of *contrafuero* is regulated in Title X of this Law.

[93] Transitory Disposition One, Number 111, of this Law rules that the National Leadership of the Movement devolves upon the *Caudillo* for life; it shall only pass to the President of the Government when delegated by the Head of State, the dispositions of the succesiion having been fulfilled.

Article Twenty-seven

I. The President of the National Council shall retire from office when he ceases to be President of the Government.

II. The Secretary-General shall retire from office:

a) Upon the retirement of the President of the Government.

b) At the instance of the President of the Government, with the approval of the Head of State.

c) At his own request, when his resignation has been accepted by the Head of State at the proposal of the President of the Government.

III. The Members of the National Council shall retire from office:

a) At the end of their term of office for groups *a*) and *c*); upon reaching the age of seventy-five for group *b*); and at the decision of the President of the Council for group *d*).

b) At their own request, when their resignation has been accepted by the Head of State at the proposal of the President of the Council.

c) Because of incapacity recognized by the Council.

d) For such other reason as may cause their retirement as Deputies of the Cortes.

Article Twenty-eight

An organic Law shall establish the norms governing the National Council.

TITLE V

THE JUDICIARY

Article Twenty-nine

The Judiciary shall enjoy complete independence. Justice shall be administered in the name of the Head of State, in accordance with the law, by Judges and Magistrates who shall be independent, immovable and responsible, as prescribed by law [94].

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[94] A reiteration of Fundamental Principle IX of those sanctioned by Law of 17th May, 1958: "Every Spaniard has the right to impartial adjudication...".

Article Thirty

Every Spaniard shall have free access to the Courts of Justice. Adjudication shall be free for those lacking economic means [95].

Article Thirty-one

The jurisdictional function, judgment and the execution of judgment, in civil, penal, litigious-administrative, labour and other cases established by law, fall within the exclusive competence of the Courts of Justice and Tribunals determined in the Organic Law of the Judiciary, according to their various terms of reference [96].

Article Thirty-two

I. Military jurisdiction shall be governed by the laws and dispositions that regulate it exclusively [97].

II. Ecclesiastical jurisdiction shall be in accordance with the provisions of the Concordat with the Holy See [98].

Article 1 of the Organic Law of Judicial Power stipulated that: "Justice shall be administered in the name of the King".

The quality of immovability seems to have been sanctioned in Article 9 of the Organic Law of Judicial Power: "The Government may not dismiss, transfer from office or pension off Judges and Magistrates, except in the cases and in the manner set forth in the Constitution of the Monarchy and the Laws".

[95] Legal aid for those lacking economic means is laid down in Fundamental Principle IX of those sanctioned by Law of 17th May, 1958.

[96] Similarly, Article 2 of the Organic Law of Judicial Power, of 15th September , 1870, establishes that: "The power of applyng the Laws in civil and criminal cases, judgment and the execution of judgment, fall within the exclusive province of the Judges and Tribunals".

As regards administrative cases, Article 1 of the Law regulating Litigious-Administrative Jurisdiction, of 17th December, 1956, states: Litigious-administative jurisdiction shall cover claims arising in respect of acts of Public Administration subject to administrative law and with dispositions of a status inferior to that of Law".

In labour matters, Article 1 of the text of Article 11 of Law 193/1963, of 28th December, on Bases of Social Security, establishes: "The Jurisdiction of Labour is the only one competent to try, resolve and execute its decisions in individual conflicts in the social sphere of the Law".

[97] Code of Military Justice, approved by Law of 17th July, 1945.

[98] The present Concordat, of 27th August, 1953, sanctions in Article 1953, among other jurisdictional norms: "The State recognizes and respects the exclusive competence of the Tribunals of the Church for those offences that only violate ecclesiastical Law".

Article Thirty-three

The superintendence of the Judiciary is incumbent on the President of the Supreme Court, who shall be appointed from among Spanish jurists of recognized prestige [99].

Article Thirty-four

Judges and Magistrates may not be dismissed, suspended, transferred or pensioned off except for the causes and with the guarantees prescribed by law.

Article Thirty-five

I. The Office of the Attorney-General, the organ of communication between the Government and the Courts, has the mission of promoting the action of the Judiciary in defence of the public interest protected by law, and to procure before the Courts and Tribunals the maintenance of juridical order and the satisfaction of social interest [100].

II. The functions entrusted to the Office of the Attorney-General shall be excercised through its organs, in keeping with the principles of unity and hierarchical dependence.

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[99] Article 2 of Law of 20th December, 1952, on the Superintendence of Tribunals, stipulates: "The services of the Central Office of Superintendence of Tribunals, shall be performed under the authority and direction of the President of the Supreme Court, who is responsible for the superintendence and surveillance of the administration of justice in all the Tribunals and Courts of the Nation under ordinary jurisdiction". This precept reiterates the provisions of Article 11 of the Law of 17th July, 1945. As for the nomination of the President of the Supreme Court, Article 6 of the Law of 17th July, 1945, establishes that "he shall be nominated by Decree approved by the Council of Ministers, at the proposal of the Council of Justice, from among those jurists who in the performance of their duty in the Magistrature or in the Attorney-General's Office, or as Lawyers or University Professors, enjoy the highest prestige with accredited competence".

[100] A repetition in substance of the norm sanctioned in Article 763 of the Organic Law of Judicial Power: "The Office of the Attorney-General shall promote the action of justice when it concerns public interest and it shall have the representation of the Government in its relations with the Judicial Power."

Couched in similar terms is the precept contained in Article 1 of the Statute of the Office of the Attorney-General, approved by Royal Decree of 21st June, 1926.

Article Thirty-six

Public, as well as private, authorities and organs, are obliged to give the Courts and Tribunals the help necessary for the exercise of the jurisdictional function [101].

TITLE VI

THE ARMED FORCES

Article Thirty-seven

The Armed Forces of the Nation, consisting of the Army, the Navy and Air Force, and the Forces of Public Order, guarantee the unity and independence of the country, the integrity of her territory, national security and the defence of the institutional system [102].

Article Thirty-eight

A National Defence Junta, composed of the President of the Government, the Ministers of the Military Departments, the Chief of the Supreme Staff and the Chiefs-of-Staff of the Army, the Navy and the Air Force, shall propose to the Government

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[101] The public servant who, having been requested by the competent authority, fails to offer due co-operation for the administration of justice incurs the penalties outlined in Article 371 of the Penal Code.

Article 570, sub-paragraph 7, of said Code typifies as an offence against public order the failure to give the authorities the help requested in the case of an offence.

[102] The Armed Forces of the Nation constitute a single Army, defined in Article 2 of its constitutive Law of 28th November, 1878, as an institution whose function is "to maintain the independence of the country and defend her from her enemies at home and abroad". Article 1 of Law of 19th July, 1889, stipulates hat: "The Army is a national institution governed by special laws and dispositions, whose prime purpose is to maintain the independence and integrity of the country and the power of the Constitution and the Laws."

According to Article 4 of the Law of Public Order, of 30th July, 1959: "For the conservation and restoration of public order, the Home Office exercises the supreme command of the Security Forces of the State, composed of the General Police Corps, the Armed and Traffic Police, the Civil Guard Corps and all other units of security and vigilance or militia of a national, regional, provincial or municipal character, and auxiliary forces. In case of need, it may solicit, through the appropriate channels, the co-operation of military units...".

the general lines to be taken in respect of security and national defence. This National Defence Junta may include such Ministers or high-ranking officials, whose presence may be advisable because of the nature of the problems under consideration [103].

Article Thirty-nine

A Supreme Staff, dependent on the President of the Government, shall be the technical organ of National Defence, with the mission of co-ordinating the action of the Staffs of the three branches of the Armed Forces.

TITLE VII

THE ADMINISTRATION OF THE STATE

Article Forty

I. The Administration, consisting of hierarchically arranged organs, assumes the implementation of the ends of the State for the prompt and efficacious satisfaction of the general interest [104].

II. The higher organs of the Administration, their respective competence and the bases for the duties of their functionaries shall be determined by law [105].

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[103] The Junta was created by Art. 5 of Law of 8th August, 1939.

[104] This declaration appears in Article 1 of the LRJA (Law on Juridical Procedure of the Administration of the State, revised text of 26th July, 1957.

[105] According to Article 2, 1, of the LRJA (Law on Juridical Procedure of the Administration of the State), they are: the Head of State, the Council of Ministers, the Delegated Commissions, the President of the Government and the Ministers.

Their competence and duties are regulated by the LRJA itself, Title II, Chapter I, covering the Council of Ministers and the Delegated Commission of the Government; Title II, Chapter II, covering those of the President of the Government and the Ministers. Title II of the Present Organic Law outlines the duties and prerogatives of the Head of State. Similarly, Article 13 lists those of the President of the Government. The Law of 20th July, 1963, approved the bases for such duties, Decree 315/1964 of 7th February having been issued for their application. According to sub-paragraph j), Article 10 of the Law of the *Cortes*, they fall under the competence of the Plenary Session.

III. The Administration shall be advised by the consultative organs established by law [106].

IV. The Council of States is the supreme consultative body of the Administration, and its competence and function shall be determined by law [107].

V. The National Economic Council is the consultative, advisory and technical organ in matters of importance that affect the national economy [108].

Article Forty-one

I. The Administration may not issue dispositions contrary to the laws, nor regulate, save by the express authorization of the law those matters which come under the exclusive competence of the Cortes.

II. Any administrative dispositions infringing the rules set forth in the preceding paragraph shall be null and void [109].

Article Forty-two

I. The resolutions and agreements passed by the Administration shall be done in accordance with the norms regulating administrative procedure [110].

II. Against the acts and resolutions that finalize administrative procedure, those actions and appeals may be brought before the competent authority as the law allows [111].

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[106] On juridical matters, advice to the Central Administration is given by the Advisory Section of the Litigation Department. The Provincial Advisory Service is rendered by the State Counsel (Organic Regulation, revised text of 25th April, 1958). Each Department has a Council to deal with special cases.

[107] Its Organic Law is dated 25th November, 1944, and its Regulation, 13th April, 1945.

[108] It was created by Law of 4th June, 1940, which specifies its functions.

[109] A reproduction of Article 28 of the LRJA of the State.

[110] Reproduces article 31 of the LRJA of the State. The norms governing Administrative procedure are expressed in the Law of 17th July, 1958, revised by Law 164/1963, of 2nd December.

[111] According to Article 36 of the LRJA of the State, the resolutions of the following organs and authorites finalize administrative procedure: 1. The Council of Ministers and the Delegated Commissions of the Government, in all cases. 2. The Ministers, save when an appeal is in process or when a special Law grants an appeal before another of the organs listed in Article 2 of this Law. 3. The lower authorities in cases

III. The responsability of the Administration, its authorities, functionaires and agents may be demanded for the reasons and in the manner determined by law [112].

Article Forty-three

All public authorities and functionaries owe allegiance to the Principles of the National Movement and other Fundamental Laws of the Kingdom and shall take, prior to assuming office, the appropriate oath [113].

Article Forty-four

The Court of Exchequer of the Kingdom is responsible, with complete independence, for the auditing and verification of the accounts relevant to action taken in the exercise of Budgetary and Fiscal Laws, as well as the accounts of all official organs receiving aid or subsidies out of the General Budget of the State and of its autonomous bodies, and for the execution of the other functions stipulated in its organic Law [114].

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resolved by a Ministerial delegation or other organ whose resolutions may terminate administrative procedure. 4. The Under-Secretaries and General Directors on questions of personnel. 5. Any authority established by a legal or regulative disposition.

[112] This question is regulated by Title IV of the LRJA of the State, which introduces the concept of the "objective fault", as it concedes the right of indemnity for "the damage suffered by private individuals to their property or rights", as a consequence of the normal or abnormal functioning of the Public Services.

[113] It is the first duty that Article 76 of the Civil Service Law imposes on public servants.

Law 6/1961, of 19th April, imposes this obligation. Besides, the appointment of career civil servants has as a requisite, according to Article 36 of the Civil Service Law (complete text): "... c) The swearing of allegiance to the Fundamental Principles of the National Movement and other Fundamental Laws of the Kingdom".

[114] The Administrative and Accounting Law, of 1st July, 1911, defines in Article 33 (according to the text approved by the Law of 18th December, 1950) the General Budget of the State as "the ciphered expression of the obligations which the Theasury must meet as the maximum in a year, in respect of the services that must be maintained therein, and the estimate of the resources or means that are considered realizable to cover such services". They shall be drawn up at six-monthly intervals to cover two yearly periods... "and shall be drawn up and presented to the *Cortes* before 1st July of the applicable year..." (Art. 34).

TITLE VIII

LOCAL ADMINISTRATION

Article Forty-five

I. The Municipalities are natural entities and constitute the basic structures of the national community, being grouped territorially in provinces [115].

II. The Province is a district determined by the grouping of Municipalities, besides being a territorial division of the State Administration. Territorial divisions distinct from the Province may also be established [116].

Article Forty-six

I. The Municipalities and the Provinces have a juridical status and are fully capable of carrying out their particular functions as established by law, without prejudice to their co-operative functions in the service of the State [117].

II. The municipal and provincial Corporations, the representative and administrative organs of the Municipality and the Province, respectively, shall be elected by vote through the representative channels specified in Article ten of the Fuero de los Españoles [118].

Article Forty-seven

The State promotes the development of municipal and provincial life, protects and favours the patrimony of the local Corporations and ensures the economic means necessary for the fulfilment of their ends.

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[115] This precept corresponds to Article 1 of the Law of Local Administration, of 24th June, 1955.

[116] This corresponds to Article 2 of the Law of Local Administration, although it admits the possibility of creating infra-provincial or supra-provincial territorial divisions.

[117] These provisions are regulated by the Law of Local Administration.

[118] Regulated by the Regulation on the Organization, Functioning and Juridical System of the Local Corporations, of 17th May, 1952.

Article Forty-eight

The system of local Administration and of its Corporations, in accordance with the provisions of the preceding articles and the guarantees demanded by the common good in this respect, shall be determined by law.

TITLE IX

RELATIONS BETWEEN THE SUPREME ORGANS OF THE STATE

Article Forty-nine

The Spanish Cortes shall be immediately informed of the oppointment of a new Government and of the replacement of any of its members [119].

Article Fifty

Apart from its participation in legislative affairs, the Cortes has the following duties in relation to the Head of State:

a) Receiving from the Head of State and from the heir to the Crown, upon the latter's reaching the age of thirty, an oath of allegiance to the Principles of the Movement and other Fundamental Laws of the Kingdom [120].

b) Resolving, in accordance with the Law of Succession, all questions that may arise in respect of the succession in the Headship of State [121].

c) Authorizing the Head of State to carry out those acts which, by Fundamental Law, require the intervention of the Cortes [122].

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[119] This was introduced by the present Law, no provision having formerly been made in this respect.

[120] The oath allegiance to the Principles of the Movement and other Fundamental Laws of the Kingdom was imposed by Article 9 of the Law of Succession in the Headship of the State, as a necessary requisite for the exercise of such Headship. The new Law introduces the requirement that the heir to the throne must take an oath upon reaching the age of thirty.

[121] See Articles 6, 7 and 8 of the Law of Succession.

[122] See Article 9 of the Organic Law.

d) Executing the other functions entrusted to them by the Fundamental Laws.

Article Fifty-one

The Government may submit to the sanction of the Head of State dispositions with the force of law, with the express authorization of the Cortes [123].

Article Fifty-two

Except in the case covered by the preceding article and those appearing in sub-paragraph *d*) of Article Ten of this Law, and in Article 13 of the Law of the Cortes, the Government may not issue dispositions which, according to Articles Ten and Twelve of the Law of the Cortes, must take the form of laws [124].

Article Fifty-three

The President of the Government and the Ministers shall inform the Cortes of the activities of the Government and of its respective Departments and, if necessary, must answer all

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[123] This question was already regulated in Article 10, sub-paragraph 4, of the Law on Juridical Procedure of the Administration of the State, which required, over and above the express authorization of the *Cortes*, the prior approval of the Council of State in plenary session.

[124] Article 10 of the Law of the *Cortes* invests the *Cortes* with the competence to examine in full the acts or laws related to the major questions of the State, such as budgets, general economic management, the bases of Penal and Civil Law, etc. Article 12 of the same Law attributes to the Commissions of the *Cortes* all the dispositions not included in Article 10, which must take the form of laws either because they shall be so established in the future, or because they shall be so styled by a commission, created for the purpose by this article.

The Government may not issue dispositions on these matters except in the following cases:

a) When they have the express authorization of the Cortes (Art. 51 of the Organic Law and Art. 10, 4, of the Law of Juridical Procedure).

b) When external security, the independence of the nation, the integrity of its territory or the institutional system of the Kingdom are in grave and imminent danger (Art. 10, d), of the Organic Law).

c) In case of war or emergency, through a Decree-Law (Art. 13 of the Law of the *Cortes* and Art. 10, subpara. 3, of the Law of Juridical Procedure).

requests, questions and summonses made according to regulations [125].

Article Fifty-four

I. The Government is responsible for drawing up the draft Law (Bill) on the General Budget of the State, and the Cortes must approve, amend or reject it. If the Budget Law is not approved before the first day of the following fiscal year, the budget of the previous year shall be considered to be automatically prorogued until the new budget is approved [126].

II. Once the General Budget of the State has been approved, only the Government may present Bills requiring an increase in public expenditure or a decrease in revenue, and any proposed law, or amendments to a Bill or proposed law involving an increase in expenditure or a decrease in revenue, shall require the approval of the Government before they are put through the normal channels [127].

III. The Government shall submit to the Cortes, for their approval, the General Accounts of the State, once they have been audited and verified by the Court of Exchequer of the Kingdom.

Article Fifty-five

The Court of Exchequer of the Kingdom, in the exercise of its function as Controller, must give the Government and the Cortes, in the form of memoranda and reports, its opinion on the manner in which the Budget Laws and other fiscal laws have been executed, in accordance with the provisions of the Law in this respect, and on those cases which, by virtue of their exceptional importance, it may consider it necessary to exercise this faculty [128].

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[125] The summonses, requests and questions are regulated in Articles 71 foll. of the Regulations of the Spanish *Cortes*, approved by Law of 26th December, 1957.

[126] This text is in accordance whit Article 60 of the Regulations of the *Cortes*.

[127] In accordance with Art. 59 of the Regulations of the *Cortes*.

[128] See article 44 of the present La.

Article Fifty-six

Only the Head of State may seek the advice of the Council of the Realm [129].

Article Fifty-seven

It is the duty of the Head of State to settle, in accordance with the laws, any questions of competence between the Administration and the Judges of ordinary and special Courts, and those arising between the Court of Exchequer and the Administration, or between the Court of Exchequer and the other ordinary and special Courts of justice [130].

Article Fifty-eight

I. The Presidents of the Supreme Court of Justice, the Council of State, the Court of Exchequer of the Kingdom, and the National Economic Council shall be appointed by the Head of State from among three candidates proposed by the Council of the Realm [131].

II. Their term of office shall be for six years, and their posts shall be subject to the restrictions and incompatibilities imposed by law.

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[129] This precept was formerly stated in Article 17 of the Regulations of the Council of the Realm, approved by Decree of 30th December, 1948.

[130] The Law regulating jurisdictional conflicts is dated 17th July, 1948.

[131] Formerly, these appointments fell under the exclusive competence of the Head of State:

1. The President of the Supreme Court was nominated by Decree, approved by the Council of Ministers, at the proposal of the Council of Justice, from among those jurists who in the performance of their duties in the Magistrature, or in the Attorney General's Office, or as Lawyers or Professors, enjoyed the highest prestige with accredited competence (Art. 6 of Law of 17th July, 1945, which reorganized the Supreme Court).

2. The President of the Council of State was nominated, in accordance with Article 5 of the Organic Law of said Council, by the Head of State, from among persons who were or had been one of the following:

1. President of the Cortes.
2. Minister.
3. President of the Council of State.
4. President of the Supreme Court.
5. Captain-General of the Army or Navy.

III. They shall retire:

a) Upon the expiry of their term of office.

b) At their own request, once their resignation has been accepted by the Head of State, having been considered by the Council of the Realm.

c) At the decision of the Head of State, in agreement with the Council of the Realm.

d) At the proposal of the Council of the Realm, for incapacy recognized by two-thirds of its Members.

TITLE X

THE APPEAL OF «CONTRAFUERO» [132]

Article Fifty-nine

I. Contrafuero is any legislative act or general disposition of the Government that may attack the Principles of the National Movement or the other Fundamental Laws of the Kingdom.

II. As a guarantee of the principles and norms infringed by contrafuero, the right of appeal before the Head of State has been established .

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6. President of the Supreme Council of War and Marine, of the High Court of Military Justice.
7. High Commissioner of Spain in Morocco.
8. Permanent Counsellor of State, with five years of service as such.

3. Article 27 of the Law of the Court of Exchequer, of 3rd December, 1953, stipulated that the nomination of the President rested with the Head of State, without any more limitations.

4. Article 2 of Law of 9th June, 1940, regulating the National Economic Council, stated that the President of the Council would be nominated directly by the Head of State.

[132] Under the present title is established, in keeping with traditional terminology, the appeal of *contrafuero* before the Head of State, with the same meaning as the appeal of unconstituionality of the Laws in comparative Law.

1. *Object of appeal*:

Any legislative act or general disposition of the Government that infringes the Principles of the National Movement or the other Fundamental Laws of the Kingdom.

2. *Who may promote the appeal*:

— The National Council.
— The Standing Committee of the *Cortes*.

Article Sixty

The appeal of contrafuero may be lodged by:

a) The National Council, in all cases, by resolution adopted by two-thirds of its Members.

b) The Standing Committee of the Cortes for Government disposition of a general nature, by resolution adopted by a two-thirds majority.

Article Sixty-one

I. The appeal of contrafuero must be placed before the Council of the Realm within two months of the publication in the "Boletín Oficial del Estado" (Official Gazette of the State) of the law or disposition of a general nature motivating the appeal.

II. The President of the Council of the Realm shall immediately notify the Head of State of the presentation of the appeal of contrafuero, and shall bring it to the attention of the Standing Committee of the Cortes or of the President of the Government, as the case may be, so that, if necessary, they may appoint a representative to defend the validity of the law or disposition (of a general nature) concerned before the Council of the Realm.

III. The Council of the Realm, upon deciding that the motives are well-founded, may propose to the Head of State the suspension, during the process of appeal, of the law or disposition (of a general nature) concerned or, if applicable, of the precept or precepts of such a law or disposition that may be affected by the appeal.

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3. *Organ before which appeal may be placed*:

The Council of the Realm, presided for this purpose by the President of the Supreme Court of Justice. This Council acts in such cases as a Court of Constitutional Guarantees.

4. *Aspects of Procedure*:

Although the present title covers some points of procedure, a special Law shall establish all the aspects of procedure arising out of the present appeal of *contrafuero*.

See Organic Law of the Movement and of its National Council, of 26th June, 1967.

Article Sixty-two

I. The Council of the Realm shall seek a ruling on the question posed by the appeal of contrafuero from a Committee of Inquiry presided by the President of a Division of the Supreme Court of Justice and composed of: one Member of the National Council, one Permanent Counsellor of State, one Magistrate of the Supreme Court of Justice and one Deputy of the Cortes, appointed by the Standing Committee of the respective institutions and, in the case of the Supreme Court, by its Government Division. Said ruling shall be brought to the Council of the Realm, with details of the individual votes, if any.

II. The Council of the Realm, presided for this purpose by the President of the Supreme Court of Justice, shall propose to the Head of State the resolution taken.

Article Sixty-three

Should the Standing Committee of the Cortes recognize an infringement of the Principles of the Movement, or of the other Fundamental Laws, in a Bill or proposed law on which a ruling has been given by the appropriate Committee of the Cortes, it shall express its opinion, in detail and in writing, within eight days following the publication of the ruling in the "Boletín Oficial", to the President of the Cortes, who shall pass it on to the Committee responsible for the ruling, so that it may re-examine the Bill or proposed law in question. Meanwhile, its inclusion on the agenda of the Assembly shall be suspended or, if necessary, it shall be removed.

Article Sixty-four

The resolution that annuls, as a contrafuero, the legislative act or disposition (of a general nature) of the Government, the object of the appeal, shall require the immediate publication in the "Boletín Oficial del Estado" of the nullity granted, with the latitude proper to the case defined.

Article Sixty-five

I. The Head of State, before submitting to referendum a Bill or proposed law drawn up by the Cortes, shall ask the

National Council to declare, within fifteen days, whether in its judgment there exists any motive that might bring about an appeal of contrafuero.

II. If the National Council thinks that such a motive exists, it shall proceed to act in the manner outlined in Article sixty-one. Otherwise, or in the case of an appeal being rejected, the law may be submitted to referendum, and after its promulgation, it may not be the object of an appeal of contrafuero.

Article Sixty-six

A special Law shall establish the conditions, the form and the terms of procedure for promoting and substantiating an appeal of contrafuero.

TRANSITORY DISPOSITIONS

First

I. When the provisions of the Law of Succession have been fulfilled, the person called to exercise the Headship of State, as King or Regent, shall assume the functions and duties assigned to the Head of State in the present Law.

II. The attributions granted to the Head of State by the Laws of 30th January, 1938, and 8th August, 1939, as well as the prerogatives bestowed upon him by Articles Six and Thirteen of the Law of Succession, shall subsist and remain in force until the eventuality referred to in the preceding paragraph comes to pass.

III. The National Leadership of the Movement is vested for life in the person of Francisco Franco, Caudillo of Spain. Upon the fulfilment of the provisions of the succession, it shall pass to the Head of State and, by his delegation, to the President of the Government.

Second

Upon the constitution of the next legislative term of the Cortes, there shall come into force the amendments introduced by the third additional disposition of the present Law ("Boletín Oficial del Estado" no. 9, of 11th January, 1967), in Articles

two, six and paragraph 5 of Article seven of the Law of the Cortes, and immediately thereafter the amendments made in the Council of the Realm, according to the new text of Article Four of the Law of Succession in the Headship of State established in the Fourth Additional Disposition.

Third

With the exceptions made in the preceding transitory disposition, the present Law shall come into force on the day following its promulgation.

Fourth

Within a period of four months as from the promulgation of the present Law, there shall be published the revised text of the Fundamental Laws, which shall contain the amendments referred to in the additional dispositions of the present Law, after their sanction by the Council of the Realm and their debate by the Council of Ministers.

Fifth

The Government, within as brief a period as possible, shall present to the Cortes the Bills, and will issue the dispositions, leading to the execution of the present Law.

FINAL DISPOSITIONS

First

As of the date this Law comes into force, all dispositions contrary to its precepts shall be derogated.

Second

The present Law is a Fundamental Law, as defined in Article Ten of the Law of Succession in the headship of State [133].

[133] The Fundamental Laws are those essential principles of political organization compiled in one or several legislative volumes, which are given a higher formal status than that of ordinary laws.

According to Article 10 of the Law of Succession in the Headship of *State*, of 26th July, 1947, the Fundamental Laws are: the *Fuero de los Españoles* (Statute Law of the Spanish People, of 17th July, 1945), the Labour Law (of 9th March, 1938), the Constitutive Law of the Spanish *Cortes* (of 17th July, 1942, reformed by that of 9th March, 1945), the present Law of Succession, the Law of the National Referendum (of 22nd October, 1945) and any other which may be promulgated in the future in this category. Their derogation or amendment shall require, besides the approval of the *Cortes*, a National Referendum.

5. CONSTITUTIVE LAW OF THE CORTES

of 17th July, 1942, amended by the Organic Law of the State of 10th January, 1967

The creation of a juridical system, the organization of the administrative activities of the State, the adjustment of the new order to an institutional system with clarity and precision, require a process of elaboration from which it is unwise to omit representatives of the constitutive elements of the national community, in order to achieve a design of the highest quality and a firm foundation in the country. The contrast of opinions — within the unity of the system — the airing of aspirations, well-grounded and constructive criticism, and the intervention of legislative technique should contribute to vitality, justice and the perfection of the positive law of the Revolution and of the new Economy of the Spanish people.

Hazards so abnormal that it would be idle to explain them have delayed the achievement of this goal. But, the phase of the National Movement when it was not feasible to attempt to put it into effect having passed, the time has come to establish an organ to accomplish this grand design. Continuing in the Headship of State the supreme power for dictating juridical norms of a general nature ,in the terms of the Laws of 30th January, 1938, and 8th August, 1939, the organ created will signify, as well as being an effective instrument of collaboration in that funcition, a principle of self-limitation for a more systematic institution of authority.

On the lines of the National Movement, the Cortes, now in the process of formation, will signify the revival of a glorious Spanish tradition, both in its designation and in its composition and attributions.

The amendments introduced by the Organic Law of the State and by its additional dispositions serve to perfect and accentuate the representative character of the political system, which is the basic principle of the public institutions. So far as the Cortes is concerned, they have certain fundamental aims:

introducing a new group of Deputies to represent the family, elected by the Heads of Families and married women, in keeping with the principle of equal political rights for women; extending representation to other Societies, Corporations and Associations, at the same time ,reducing drastically the number of Deputies therein and, in general, securing a more authentic representation and increasing to a considerable degree the proportion of elected Duputies in relation to those who hold that title by reason of office. The same method is followed in the election, by the Cortes in plenary session and in each legislative term, of the two Vice-Presidents and the four Secretaries.

In virtue of which, I resolve:

Article One

The Cortes are the highest organ of participation by the Spanish people in the affairs of the State. The principal function of the Cortes is the elaboration and approval of Laws, without prejudice to the sanction reposing in the Head of State [134].

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[134] Some precepts of the Organic Law of the State refer to the relations of the Head of State with the *Cortes*: Art. 7, on convocation and prorogue; Art. 9, on agreement or authorization to carry out specific acts; Art. 10, stipulating that the Head of State shall be assisted by the Council of the Realm to propose to the *Cortes* the acts set forth in the preceding article, to return to the *Cortes* a law drawn up by the *Cortes*, or to prorogue a legislative term for grave reasons. Similarly, it requires that the *Cortes* should take note of the measures adopted in the eventualities indicated in Article 10, a) and Article 11 of the Organic Law of the State. The attributions of the *Cortes* in relation to other high organs of the State are listed in Articles 49-53 and 55.

Art. 41 of the Organic Law of the State is a restatement of Art. 26 of the Law on Juridical Procedure of the Administration of the State, of 26th July, 1957, which prohibits the Administration from regulating, save with the express authorization of the Law, matters falling within the exclusive competence of the *Cortes*.

The intervention of the *Cortes* in the appeal of *contrafuero* is described in Arts. 59-63 of the Organic Law of the State.

The *Cortes* have been converted into the single legislative organ of the nation, this body having been assigned the task of "elaborating and approving the Laws". Formerly, the *Cortes* only "prepared and elaborated" the laws.

Article Two [135]

1. The Cortes are composed of Deputies in the following categories:

a) Members of the Government.

b) Members of the National Council.

c) The President of the Supreme Court of Justice, the President of the Council of State, the President of the Supreme Council of Military Justice, the President of the Court of Exchequer of the Kingdom and the President of the National Economic Council.

d) One hundred and fifty representatives of the Trade Union Organization .

e) One representative of the Municipalities of each Province elected by their Town Councils from among their members, and another from each of the Municipalities of more than 300,000 inhabitants, and from the Municipalities of Ceuta and Melilla, elected by the respective Town Councils from among their members; one representative for each Provincial Deputation and the Canary Island District, elected by the respective Corporations from among their members, and the representatives of the local Corporations of territories not constituted in provinces, elected in a similar manner.

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[135] The representation of the Trade Union Organization in the *Cortes* is regulated by Decree of 24th February, 1961, amended by Decrees of 7th March and 23rd April, 1964.

On the replacement of Deputies of the *Cortes* representing the Municipalities, see Decrees of 18th February, 1955, and 22nd February, 1964.

For information on Deputies of the *Cortes* representing the Provincial Deputations and Insular Districts, see Decrees of 4th March, 1955, and 21st April, 1964.

The changes made in the composition of the *Cortes* are substantial:

1. Municipal representation may be effected through any of their Councillors, while the former system limited it to Mayors appointed by the Government.

2. Direct family representation has been introduced, formerly nonexistent, through the election of 104 Deputies (two to a province) by the heads of families and married women. See Law on Family Representation in the *Cortes*, of 26th June, 1967.

3. The number of Deputies freely appointed by the Head of State has been reduced from 50 to 25.

4. A declaration has been made that all Deputies have freedom of action in the service of the nation and the common good, and are not bound by any imperative mandate.

f) Two Family representatives for each Province, elected by those appearing on the electoral rolls as heads of families and married women, in the manner established by law.

g) The Rectors of Universities .

h) The President of the Spanish Institute and two representatives elected from among the members of the Royal Academies forming the Institute; the President of the Council for Advanced Scientific Research and two representatives of this Council elected by its members.

i) The President of the Institute of Civil Engineers and one representative of the Associations of Engineers forming the Institute; two representatives of the Colleges of Lawyers; two representatives of the Medical Colleges; one representative of each of the following Colleges; College of Stock-Exchange Agents, College of Architects, College of Economists, College of Pharmacists, College of Licentiates and Doctors of Science and Letters, College of Licentiates and Doctors of Chemical and Physico-Chemical Sciences, College of Notaries, College of Court Attorneys, College of Property Recorders, College of Veterinary Surgeons, and other professional Colleges of higher academic status which may be recognized for this purpose in the future and which shall be elected by the respective Official Colleges; three representatives of the Official Chambers of Commerce, one representative of the Chambers of Urban Property; one representative of the Tenant Associations, elected by their Boards or representative organs.

All those elected under the provisions of this sub-paragraph must be members of the respective Colleges, Corporations or Associations electing them.

(The composition and distribution of the Deputyships covered in this sub-paragraph may be altered by law, provided the total number does not exceed thirty.)

j) Those persons who by virtue of their ecclesiastical, military or administrative status, or their service to the country, may be appointed by the Head of State, after approval by the Council of the Realm, up to a number not exceeding twenty-five.

II. All the Deputies of the Cortes represent the Spanish people, must serve the nation and the common good, and must not be bound by any imperative mandate.

Article Three [136]

To be a Deputy of the Cortes, one must be:

1. A Spaniard and must have attained one's majority.
2. Free of political incapacity and enjoy the full use of one's civil rights.

Article Four

The Deputies of the Cortes shall verify before the President of the Cortes the election, designation or office giving them the right to such an investiture. The President of the Cortes shall witness the swearing of their oath, shall give possession of and issue the corresponding titles.

Article Five [137]

The Deputies of the Cortes may not be arrested without the previous authorization of the President of the Cortes, except in cases of *flagrante delicto*. In such cases, the President of the Cortes shall be notified of the arrest.

Article Six

Deputies of the Cortes who hold membership by reason of their tenure of office shall cease to be Deputies upon their retirement from said office. Those appointed by the Head of State shall cease to be Deputies upon the revocation of their appointment by the Head of State. The other Deputies shall serve a term of four years, and may be re-elected; but, if during this term of four years, a Deputation, Town Council or Corporation representative should cease to be a member of the body he represents, he shall alco cease to be a Deputy of the Cortes.

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[136] The rights and duties of Deputies are outlined in Articles 5-9 of the Regulations of the *Cortes*, dated 26th December, 1957. See Law on Family Representation in the *Cortes*, of 26th June, 1967.

[137] See Article 7 of Regulations of the *Cortes* of 26th December, 1957.

Article Seven [136]

I. The President of the Cortes shall be appointed by the Head of State from among three Deputies of the Cortes proposed to him by the Council of the Realm within the maximum period of ten days after the vacancy occurs. His nomination shall be approved by the President of the Council of the Realm.

II. His term of office shall be for six years, during which period he shall retain his status as Deputy of the Cortes. The office of President of the Cortes shall be subject to the restrictions and incompatibilities prescribed by law.

III. The President of the Cortes shall retire from office:

a) Upon the expiry of his term of office.

b) At his own request, once his resignation has beea accepted by the Head of State, having been considered by the Council of the Realm in a session not attended by the President of the Cortes.

c) At the decisión of the Head of state, in agreement with the Council of the Realm in a session not attended by the President of the Cortes .

d) For incapacity recognized by two-thirds of the Deputies of the Cortes, presided by the first Vice-President or the second Vice-President, after a detailed presentation of the case by the Standing Committee, presided over in a similar manner, or by the Government.

IV. When the presidency of the Cortes falls vacant, this post shall be assumed by the first Vice-President or the second Vice-President, util a new President is appointed within a period of ten days.

V. The two Vice-Presidents and the four Secretaries of the Cortes shall be elected, at each legislative term from among the Deputies, by the Cortes in plenary session.

Article Eight

The Cortes shall function in plenary session and in Committees. The Committees are established and nominated by the

[136] The convocation, constitution and functioning of the Plenary Assembly are regulated in Article 61 foll. of the Regulations of the *Cortes*.

President of the Cortes, at the proposal of the Standing Committee and in agreement with the Government .The President, in agreement with the Government, draws up the agenda for both the plenary session and the Committees .

Article Nine

The Cortes shall assemble in plenary session for the examination of the laws requiring such treatment, and whenever they are convoked by the President, in agreement with the Government.

Article Ten [139]

The Cortes shall examine, in plenary session, the acts or laws dealing with the following matters:

a) The ordinary and extraordinary budgets of the State.
b) Large-scale operations of an economic or financial nature.
c) The establishment or reform of the tax system.
d) Banking and monetary affairs.
e) The economic intervention of the Trade Unions and whatever legislative measures may affect the Economy of the nation to an important degree.
f) Basic law regulating the acquisition and loss of Spanish nationality and the duties and rights of the Spanish people.
g) The politico-jurídical organization of the institutions of the State.
h) The structure of local administration.
i) The structures of Civil, Mercantile, Social and Penal Law and litigation.
j) The structures of judicial Organization and Public Administration.
k) The structures of agrarian, mercantile and industrial organization.
l) National educational schemes.
m) Any other laws that the Government, of its own accord or at the proposal of a Committee, may decide to submit

[139] The convocation, constitution and functioning of the Plenary Session are regulated in Articles 61 foll. of the Regulations of the *Cortes*.

to the Cortes in plenary session; similarly, the Government may submit to the Cortes in plenary session questions or resolutions that have no legal connotations.

Article Eleven [140]

The Bills to be submitted to the Plenary Session of the Cortes shall first be passed to the Committees concerned for a report and proposal thereon.

Article Twelve [141]

I. All the dispositions not covered in Article Ten and which must take the form of laws fall within the competence of the Committees of the Cortes, whether this is established in a later law or whether they are declared as such by a Committee composed of the President of the Cortes, a Minister appointed by the Government, a Member of the Standing Committee of the National Council, a Deputy of the Cortes who is a qualified Lawyer, the President of the Council of State and the President of the Supreme Court of Justice. This Committee shall issue a ruling at the request of the Government or of the Standing Committee of the Cortes.

II. Should the Committee of the Cortes, on the occasion of the study of a Bill, proposition of Law or independent motion, state a question outside the competence of the Cortes, the President of the latter, on his own initiative or at the request of the Government, may demand the ruling of the Committee referred to in the previous paragraph. If the ruling should be that the question under reference was not the competence of the Cortes, it shall be removed from the agenda by the Committee.

Article Thirteen

For reasons of urgency, the Government may propose to the Head of State the sanctioning of decree-laws to regulate

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[140] The procedure to be followed on Bills is described in Articles 34-52 of the Regulations of the *Cortes*.

[141] The composition, attributions and functioning of the Committees of the *Cortes* are described in Articles 19-33 of the Regulations of the *Cortes*.

the matters mentioned in Articles Ten and Twelve. The urgency of the case shall be recognized by the Head of State, having been brought to the attention of the Committee referred to in the preceding article, and this Committee may so advise the Standing Committee if it observes any aspect of contrafuero. The promulgation of a decree-law shall be brought to the notice of the Cortes.

Article Fourteen

I. The ratification of international treaties or agreements that affect the full sovereignty or the territorial integrity of Spain shall be the object of a law approved by the Cortes in full session .

II. The Cortes in Plenary Session or in Committee, as the case may be, shall be consulted for the ratification of other treaties affecting matters whose regulation falls within their competence, in accordance with Articles Ten and Twelve.

Article Fifteen [142]

I. Besides the examination and presentation of Government Bills to the Plenary Session, the legislative Committees may submit proposed laws to the President of the Cortes, who is responsible for including them in the agenda, in agreement with the Government.

II. The legislative Committees may receive from the President of the Cortes other assignments, such as carrying out studies, obtaining information and formulating petitions or proposals. For this purpose, they may form special Committees distinct from the legislative Committees .

Article Sixteen [143]

The President of the Cortes shall submit to the Head of State, for his sanction, the laws approved by the Cortes, which

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[142] The procedure on proposed laws is described in Articles 53-57 of the Regulations of the *Cortes*.

[143] Unlike the former system, there is now a time limit for the sanctioning and promulgation of Laws approved by the *Cortes* by the Head of State.

should be promulgated within a month of their receipt by the Head of State.

Article Seventeen [144]

The Head of State, through an explanatory message and with a prior favourable ruling by the Council of the Realm, may return a law to the Cortes for renewed deliberation.

ADDITIONAL DISPOSITIONS

The Cortes, in agreement with the Government, shall draft their own regulations.

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[144] The faculties of the Head of States have been limited in respect of returning to the *Cortes* a Law for re-examination, by the requirement, now being introduced, that he should have "a prior favourable ruling by the Council of the Realm".

6. LAW OF SUCCESSION IN THE HEADSHIP OF STATE

of 26th July, 1947, amended by the Organic Law of the State of 10th January, 1967

Whereas the Spanish Cortes, as the highest organ of participation by the people in the affairs of State, have drawn up the Fundamental Law declaring the constitution of the Kingdom, have created the Council of the Realm and determined the norms governing the Succession in the Headship of State, whose text, having been submitted to the referendum of the nation, has been accepted by eighty-two per cent of the electorate, representing ninety-three per cent of voters.

And whereas the Organic Law of the State amends certain articles of said Fundamental Law, in respect of the composition of the Council of the Realm, determining that ten of its Members shall be elected as against the former number of four; and introduces other amendments to clarify certain points of the process of succession for the purpose of avoiding any risks.

Pursuant to the approval of the Cortes and with the true and direct expression of the will of the nation.

I resolve:

Article One [145]

Spain, as a political unit, is a Catholic, social and represen-

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[145] The constitution of Spain as a Catholic State is described in Article 6 of the *Fuero de los Españoles* and in the Concordat with the Holy See of 27th August, 1953.

For the manifestations of the Social State, see Labour Law.

For information on the Representative State, see Art. 10 of the *Fuero de los Españoles*, the Law of the *Cortes*, the Trade Union Law, the Law on Local Administration, of 24th June, 1955 (Arts. 85-93 and 226-234), and the Organic Law of the State (Arts. 21 and 22).

tative State which, in keeping with her tradition ,declares herself constituted into a Kingdom.

Article Two [146]

The Head of State is the Caudillo of Spain and of the Crusade, Generalisimo of the Armed Forces, don Francisco Franco Bahamonde.

Article Three [147]

If the Headship of State should fall vacant, its powers shall be assumed by a Regency Council, composed of the President of the Cortes, the highest-ranking Prelate serving as Counsellor of the Realm for the longest period, and the Captain-General, or in his absence, the Lieutenant-General, in active service and with the most seniority, of the Army, Navy or Air Force in this order, or their respective deputies in accordance with the provisions of the following article. The President of this Council shall be the President of the Cortes, and the validity of its resolutions shall require the presence of at least two of its three members, including, at all times, that of its President or, in his absence, that of the Vice-President of the Council of the Realm.

Article Four [148]

I. A Council of the Realm, which shall have precedence over the consultative bodies of the nation, shall assist the Head

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[146] The Law of 30th January, 1938, and that of 8th August, 1939, as well as the second transitory disposition of the Organic Law of the State establish and determine the powers of the Head of State, attributed to Francisco Franco Bahamonde.

See Title II of the Organic Law.

[147] The appointment of the President of the *Cortes* is verified in the manner established in Art. 7 of the Law regulating it; the Prelate of the highest rank and seniority shall be a Deputy of the *Cortes*, according to Art. 4 of this same Law; the appointment of the Captain-General or the Lieutenant-General is regulated by Decree of 18th July, 1938, and Laws of 11th April, 1941, and 19th April, 1961.

The changes made in Art. 3 tend to strengthen the constitution of the Regency Council, allowing the entry of the deputies of the nominees and establishing a quorum for the validity of resolutions.

[148] See Law of the *Cortes*.

A qualified majority is required in the following cases:

of State on highly important matters and resolutions falling within his exclusive competence. The President of the Cortes shall serve as President to this Council, which shall consist of the following members:

— The Prelate of the highest rank and seniority among those who are Deputies of the Cortes.

— The Captain-General or, in his absence, the Lieutenant-General, in active service and of the most seniority of the Army, Navy or Air Force in that order.

— The Commanding-General of the Supreme Staff or, in his absence, the most senior of the three General Chiefs-of-Staff of the Army, Navy and Air Force.

— The President of the Supreme Court of Justice.

— The President of the Council of State .

— The President of the Spanish Institute.

— Two Councillors elected by vote by each of the following groups of Deputies of the Cortes:

a) That of the Members of the National Council.
b) That of the Trade Union Organization.
c) That of Local Administration, and
d) That of family representation.

— One Councillor elected by vote by each of the following groups of Deputies of the Cortes:

a) That of University Rectors.
b) That of Professional Colleges.

— To propose to the *Cortes* a person or title of King or Regent. Art. 8 of the law of the *Cortes*.
— To declare the incapacity of the Head of State. Art. 14 of the Law of the *Cortes*.
— To declare the incapacity of the President of the Government and of the Presidents of the Supreme Court of Justice, the Council of State, the Court of Exchequer of the Kingdom and the National Economic Council.

Arts. 15 and 58 of the Organic Law of the State.

The composition and actions of the Council of the Realm is strengthened and its elective basis is extended by duplicating the number of councillors from Local Administration and the Trade Union Organization, and introducing two new Councillors for family representation and for the group of National Councillors. In future, 10 of the 17 members of this Council shall be elected.

II. The office of Councillor shall be bound to the conditions under which election or nomination was made.

III. The Head of State shall appoint, at the proposal of the Council of the Realm, from among its members, a Vice-President and the deputies of each of the Members of the Regency Council

IV. In cases where it is impossible for the President to attend, or if the Presidency of the Cortes should be vacant and, in this latter case, until such Presidency is filled, the Vice-President of the Council of the Realm shall deputize for the President.

V. The resolutions, rulings and draft resolutions of the Council of the Realm shall be adopted by a majority of votes among the Members present, whose number may not be less than half plus one of the total membership, except when the Fundamental Laws may demand a determined majority. In the event of a tie in the voting, the President shall decide the vote.

Article Five [149]

The Head of State shall be assisted preceptively by the Council of the Realm in those cases where the present Law or another Fundamental Law establishes this requisite.

Article Six [150]

At any moment, the Head of State may propose to the Cortes the person whom he thinks should succeed him, either as King or as Regent, under the conditions laid down by this Law, and similarly, he may submit for the approval of the Cortes the revocation of the person proposed by him, even though this person might have been accepted by the Cortes .

Article Seven

When, upon the Headship of State becoming vacant, the person appointed in accordance with the preceding article is

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[149] See Organic Law of the State, Law of the *Cortes* (Art. 7) and Arts. 12 and 13 of this Law.

[150] The composition and functioning of the Regency Council are described in Art. 3 of this same Law.

called to the succession, the Regency Council shall assume powers in his name and shall convoke a joint session of the Cortes and the Council of the Realm to witness the swearing of the oath prescribed in the present Law and proclaim him King or Regent.

Article Eight

I. Should the Head of State die or be declared incapacitated without having appointed a successor, the Regency Council shall assume all powers, except that of revoking the nomination of any one of the members of the Council itself, who shall retain their office in any event, and shall convoke, within three days, the members of the Government and of the Council of the Realm so that they may, in an uninterrupted and secret session, decide, by a two-thirds majority of those present, which shall be considered to be an absolute majority, which person of royal blood, in possession of the qualities required by the present Law, and taking into account the supreme interest of the country, they should propose to the Cortes as King. Should the proposal not be accepted, the Government and the Council of the Realm may formulate, subject to the same procedure, a second proposal in favour of another person of royal blood who also is qualified under the law.

II. When, in the opinion of the joint session, there is no one of royal blood with the required qualities, or if their proposals have not been accepted by the Cortes, they shall propose, with the same conditions, as Regent, the person who by his prestige, capacity and possible service to the nation, should hold this position. On presenting this proposal, they may indicate the term and conditions for the duration of the Regency, and the Cortes must decide on each of these points. If the person proposed as Regent is not accepted by the Cortes, the Government and the Council of the Realm must make, subject to the same procedure, new proposals until the approval of the Cortes is obtained.

III. In the eventualities discussed in the preceding paragranh, if the two-thirds majority is not obtained in the first voting, a second vote shall be taken and, if necesary, a third vote. In the third vote, a three-fifths majority shall suffice to validate

the decision, and this must be equivalent to at least the absolute majority.

IV. The Cortes should meet in plenary session within a maximum of eight days after each proposal, and the successor, having obtained the favourable vote of the Cortes, in accordance with the provisions of Article Fifteen, shall take the oath required by this Law, in virtue of which, and immediately thereafter, the Regency Council shall transfer its powers to the successor.

V. If the provisions established in Article Eleven of this Law are not fulfilled, upon the Headship of State becoming vacant, a successor shall be appointed in accordance with the stipulations of the present Article.

Article Nine

In order to exercise the Headship of State as King or Regent, the candidate must be male and a Spaniard, must have attained the age of thirty, profess the Catholic religion, possess the qualities necessary for the execution of his high mission and swear to uphold the Fundamental Laws, as well as swear allegiance to the Principles governing the National Movement. The same oath must be taken by the successor after reaching the age of thirty years.

Article Ten [151]

The Fundamental Laws of the nation are: the Fuero de los Españoles (Statute Law of the Spanish People), the Labour Law, the Constitutive Law of the Cortes, the present Law of Succession, the Law of the National Referendum and any other which may be promulgated in the future in this category.

Their derogation or amendment shall require, not only the approval of the Cortes, but the referendum of the nation.

Article Eleven

I. Once the Crown has been restored to the King, the regular order of succession shall be that of primogeniture and right of succesión, with preference for the anterior line over the posterior; in the same line, the closest degree of kinship over the furthest; in the same degree of kinship, the male over

[151] Articles 10 and 75 of the Organic Law of the State.

the female, who may not reign, but who may transmit the right to her heirs, and, in the same sex, the older over the younger; all this without prejudice to the exceptions and requirements prescribed in the preceding Articles.

II. In the event that the heir to the Crown, according to the order established in the preceding paragraph, has not reached the age of thirty when the throne becomes vacant, his public functions shall be exercised by a Regent appointed in accordance with Aritícle Eight of this Law, until the heir reaches the legal age.

III. The same norm shall apply if because of the incapacity of the King, recognized in the manner prescribed in Article Fourteen of the Law, the Cortes should declare the installation of the Regency, the heir not having yet reached the age of thirty years.

IV. In the eventualities discussed in the two preceding paragraph, the Regency shall come to an end as soon as the reason motivating its presence ceases to exist.

Article Twelve

All cession of rights before acceding to the throne, abdications when the successor has been appointed, renouncements of any nature and royal marriages, as well as the marriage of the immediate successors, shall be announced by the Council of the Realm and approved by the Cortes of the nation.

Article Thirteen

The Head of State, upon the advice of the Council of the Realm, may propose to the Cortes that there be excluded from the succession those royal persons lacking the necessary capacity to rule or who, because of their notorious departure from the fundamental principles of the State or because of their acts, deserve to lose the rights of succession established in this Law.

Article Fourteen [152]

The incapacity of the Head of State, recognized by a two-thirds majority of the members of the Government, shall be

[152] Arts. 3 and 8 of this Law.

communicated in a detailed report to the Council of the Realm. If this Council, by the same majority, should agree on this point, the President of the Council of the Realm shall submit the matter to the Cortes, which, at a session called within the following eigth days, shall adopt the ensuing resolution.

Article Fifteen

I. The validity of the resolutions taken by the Cortes in respect of this Law shall depend on the favourable vote of two-thirds of the Deputies present, which must be equivalent, at least, to the absolute majority of all the Deputies.

II. However, in the eventualities discussed in Articles six and eight of the present Law, if the two-thirds majority is not obtained in the first voting, a second and, if necessary, a third vote shall be taken. In the third voting, the resolution shall be validated by a three-fifths majority, which must be equivalent at least, to the absolute majority.

7. LAW OF THE NATIONAL REFERENDUM
of 22nd October, 1945

Every Spaniard having been given the opportunity to collaborate in the affairs of the State through the natural agencies of the family, the municipality and the Trade Union, and the basic Laws having been promulgated for bringing new vigour and greater spontaneity to the representative bodies within a system of Christian association, in order to safeguard the nation against the deviation that the political history of peoples has shown, to the effect that in matters of the utmost importance or public interest, the will of the nation could be supplanted by the subjetive criterion of its rulers, this Headship of State, making use of the faculties granted by the Laws of 30th January, 1948, and 8th August, 1939, has considered it advisable to institute the direct consultation of the nation by public referendum in all those cases in which, because of the transcendent nature of the Laws or the uncertainty of opinion, the Head of State should deem such a consultation appropriate.

In virtue of which, I resolve:

Article One

When the importance of certain laws warrant it, or if public interest demands it, the Head of State may, for the better service of the nation, submit to referendum the Bills (draft laws) drawn up by the Cortes.

Article Two

The referendum shall be extended to all men and women of the nation over the age of twenty-one years.

Article Three

The Government is authorized to issue the complementary dispositions for the taking of the census and the execution of the present Law.

IV. SOME ASPECTS OF THE SPANISH CONSTITUTION

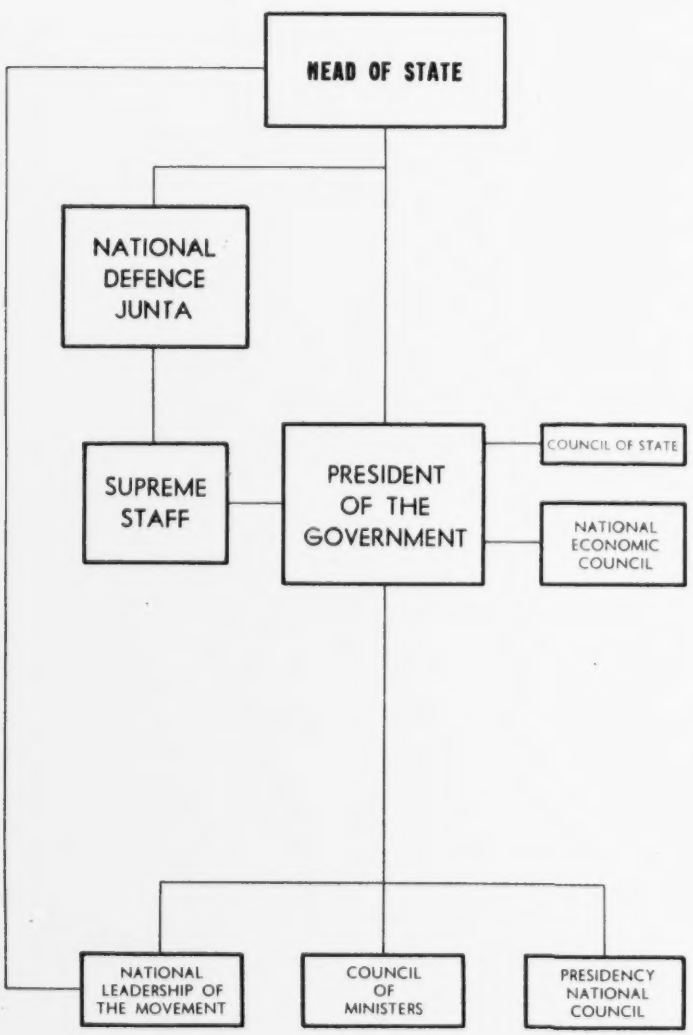
1. ORGANS OF THE GOVERNMENT ORGANIZATION CHARTS

According to the Organic Law of the State, the following are the principal organs of government of the nation:

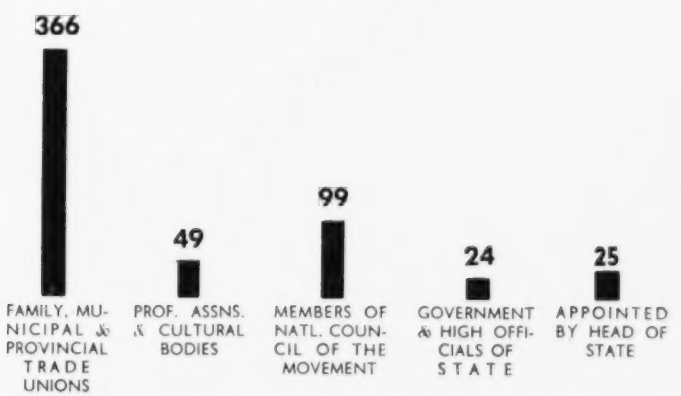
1. HEAD OF STATE, KING OR REGENT. NATIONAL LEADER OF THE MOVEMENT.
2. COUNCIL OF MINISTERS.
3. PRESIDENT OF THE GOVERNMENT.
4. VICE - PRESIDENT OR VICE - PRESIDENTS AND MINISTERS.
5. COUNCIL OF THE REALM.
6. SPANISH CORTES.
7. REGENCY COUNCIL.
8. NATIONAL COUNCIL.
9. COUNCIL OF STATE.
10. NATIONAL ECONOMIC COUNCIL.
11. COURT OF EXCHEQUER.
12. NATIONAL DEFENCE JUNTA.

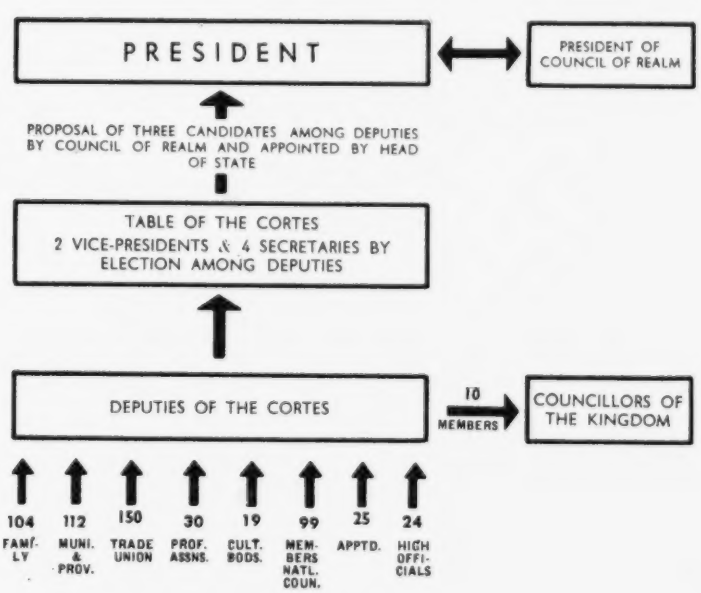
The composition, structure and functioning of the principal collegiate organs, as well as their reciprocal relations, may be seen in the following organization charts.

GOVERNMENT OF THE NATION

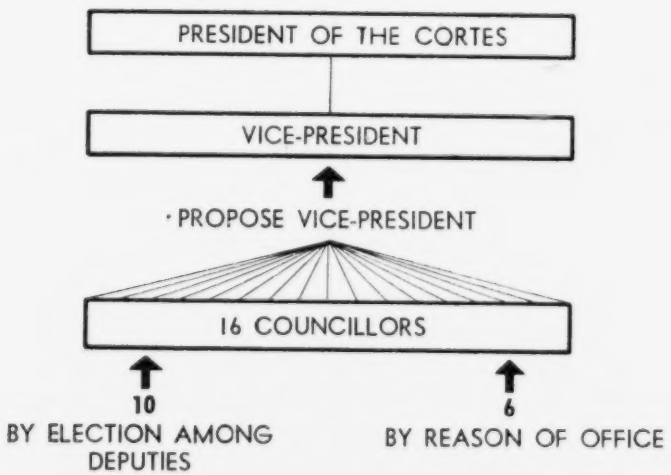


SPANISH CORTES-COMPOSITION

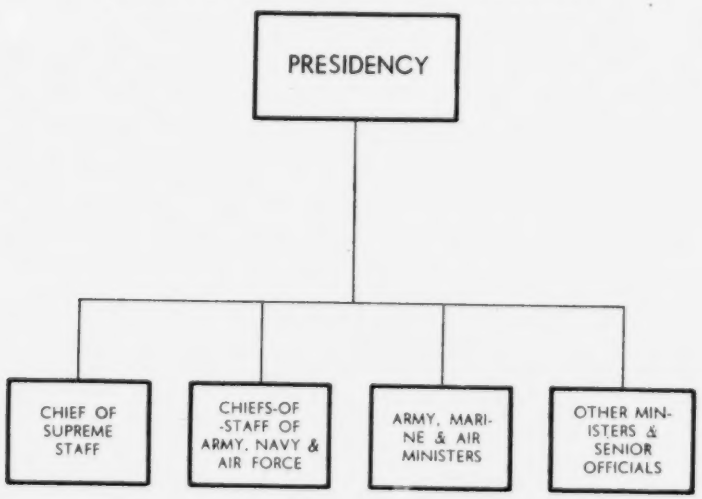



PRESIDENT
PRESIDENT OF COUNCIL OF REALM
PROPOSAL OF THREE CANDIDATES AMONG DEPUTIES BY COUNCIL OF REALM AND APPOINTED BY HEAD OF STATE
TABLE OF THE CORTES
2 VICE-PRESIDENTS & 4 SECRETARIES BY ELECTION AMONG DEPUTIES
DEPUTIES OF THE CORTES
10 MEMBERS
COUNCILLORS OF THE KINGDOM
104 FAMILY
112 MUNI. & PROV.
150 TRADE UNION
30 PROF. ASSNS.
19 CULT. BODS.
99 MEMBERS NATL. COUN.
25 APPTD.
24 HIGH OFFICIALS

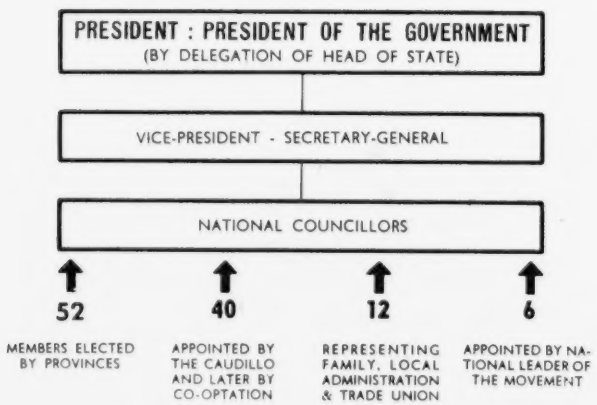
COUNCIL OF THE REALM



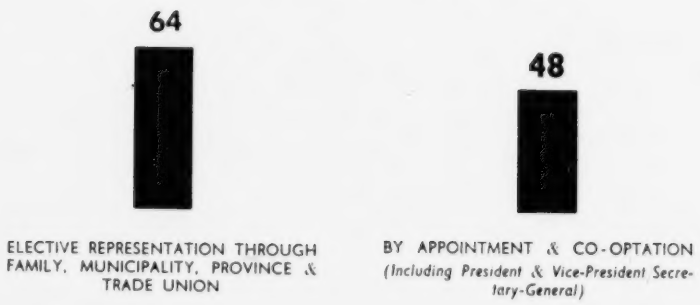
NATIONAL DEFENCE JUNTA


PRESIDENCY
CHIEF OF SUPREME STAFF
CHIEFS-OF-STAFF OF ARMY, NAVY & AIR FORCE
ARMY, MARINE & AIR MINISTERS
OTHER MINISTERS & SENIOR OFFICIALS

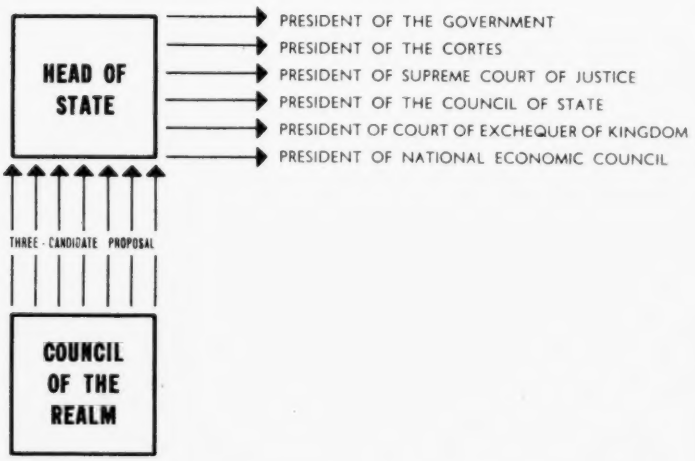
NATIONAL COUNCIL

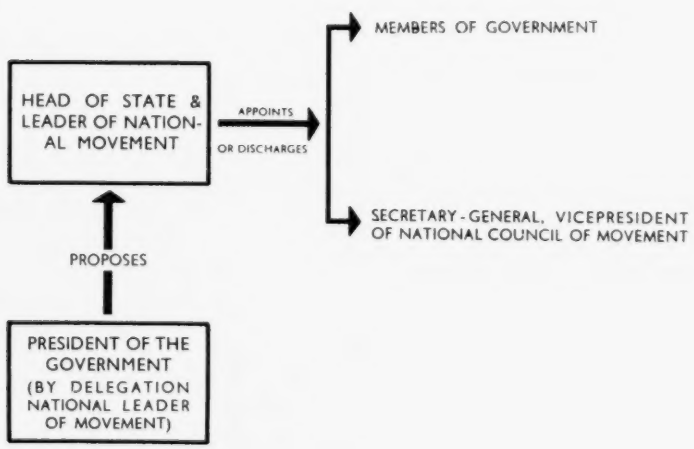


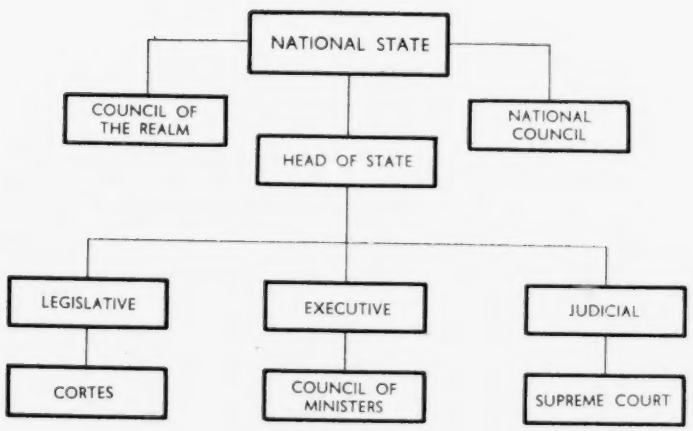
NATIONAL COUNCIL

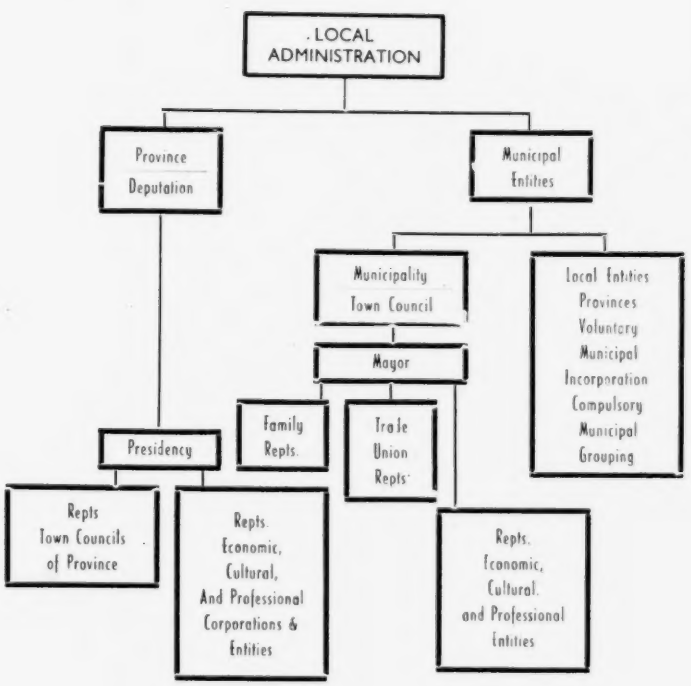

64
48
ELECTIVE REPRESENTATION THROUGH FAMILY, MUNICIPALITY, PROVINCE & TRADE UNION
BY APPOINTMENT & CO-OPTATION
(Including President & Vice-President Secretary-General)

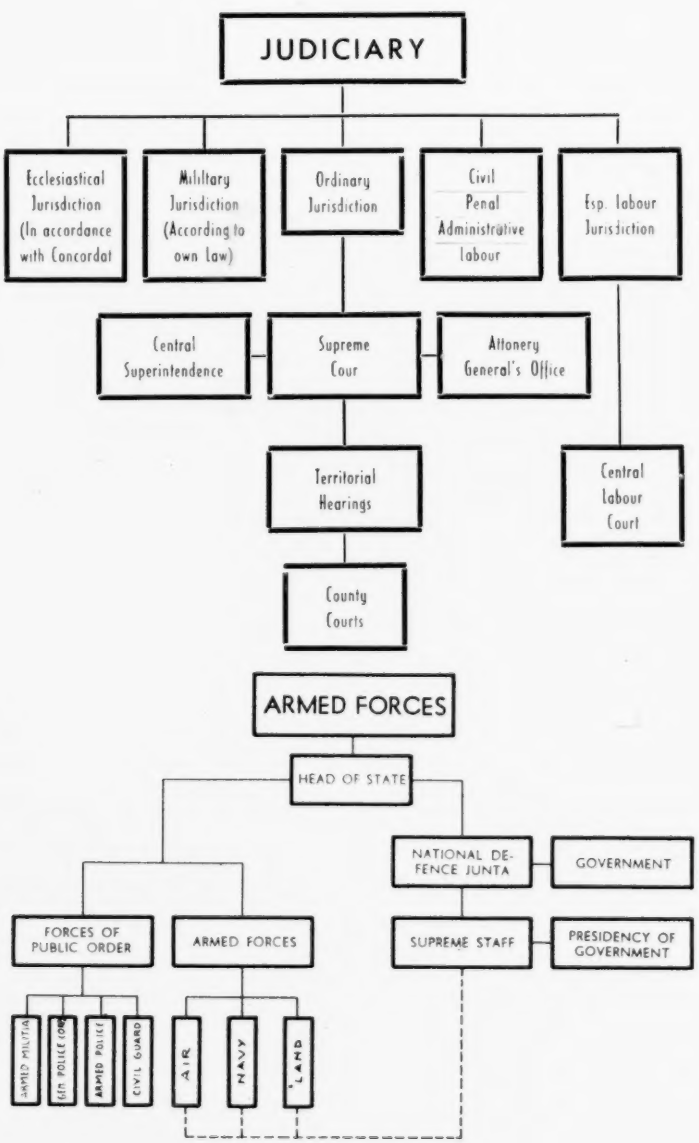
APPOINTMENT PROCEDURE


HEAD OF STATE
PRESIDENT OF THE GOVERNMENT
PRESIDENT OF THE CORTES
PRESIDENT OF SUPREME COURT OF JUSTICE
PRESIDENT OF THE COUNCIL OF STATE
PRESIDENT OF COURT OF EXCHEQUER OF KINGDOM
PRESIDENT OF NATIONAL ECONOMIC COUNCIL
THREE - CANDIDATE PROPOSAL
COUNCIL OF THE REALM


MEMBERS OF GOVERNMENT
HEAD OF STATE & LEADER OF NATIONAL MOVEMENT
APPOINTS
OR DISCHARGES
SECRETARY - GENERAL, VICEPRESIDENT OF NATIONAL COUNCIL OF MOVEMENT
PROPOSES
PRESIDENT OF THE GOVERNMENT (BY DELEGATION NATIONAL LEADER OF MOVEMENT)

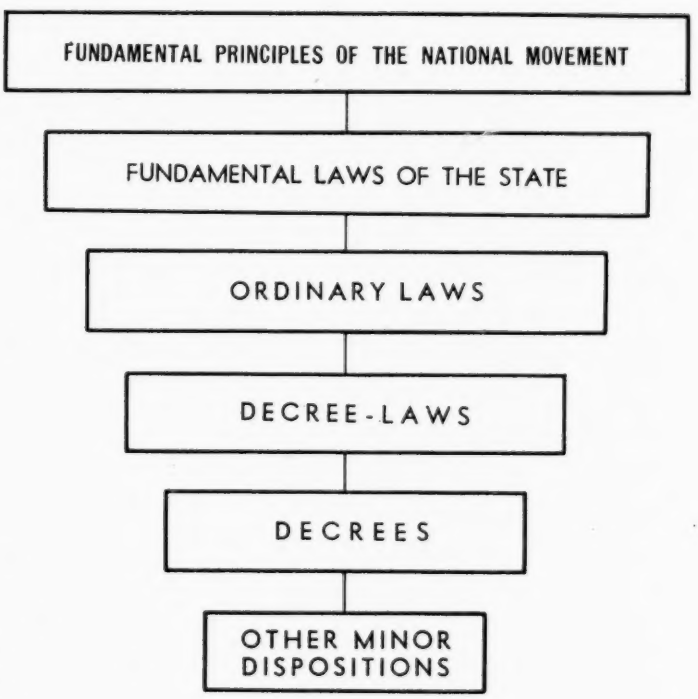

NATIONAL STATE
COUNCIL OF THE REALM
NATIONAL COUNCIL
HEAD OF STATE
LEGISLATIVE
EXECUTIVE
JUDICIAL
CORTES
COUNCIL OF MINISTERS
SUPREME COURT


LOCAL ADMINISTRATION
Province Deputation
Municipal Entities
Municipality Town Council
Local Entities Provinces Voluntary Municipal Incorporation Compulsory Municipal Grouping
Mayor
Family Repts.
Trade Union Repts.
Presidency
Repts Town Councils of Province
Repts. Economic, Cultural, And Professional Corporations & Entities
Repts. Economic, Cultural. and Professional Entities


JUDICIARY
Ecclesiastical Jurisdiction (In accordance with Concordat
Military Jurisdiction (According to own Law)
Ordinary Jurisdiction
Civil
Penal
Administrative
labour
Esp. labour Jurisdiction
Central Superintendence
Supreme Cour
Attonery General's Office
Territorial Hearings
Central labour Court
County Courts
ARMED FORCES
HEAD OF STATE
NATIONAL DEFENCE JUNTA
GOVERNMENT
FORCES OF PUBLIC ORDER
ARMED FORCES
SUPREME STAFF
PRESIDENCY OF GOVERNMENT
ARMED MILITIA
ARMED POLICE
CIVIL GUARD
AIR
NAVY
LAND

LEGISLATION

HIERARCHY OF NORMS



2. REQUISITES FOR ELECTION TO THE PRINCIPAL OFFICES OF GOVERNMENT

1. KING (Art. 9 of the Law of Succession).

A) When the Crown has not been restored to the King, those who fulfil the following conditions:

— Being male and a Spaniard.
— Having attained the age of thirty years.
— Professing the Catholic religion.
— Possessing the qualities necessary for the execution of his high mission.
— Swearing allegiance to the Fundamental Laws and to the principles informing the National Movement.
— Not having been expressly excluded from the succession.
— Being of royal blood.

B) When the Crown has been restored to the King, the order of succession shall be (Art. 11 of the Law of Succession):

— That of male child born first with the right to succeed the King, with preference for the anterior line (each generation forms a degree and a series of degrees forms a line) over the posterior.
— In the same line, with preference for the closest degree over the furthest.
— In the same degree, with preference for the male over the female, who may not rule, but who may transfer the right to her heirs.
— Within the same sex, with preference for the older over the younger person.

2. REGENT (Art. 8 of the Law of Succession).

— The same condition as applicable to the King under sub-paragraph A), except for the requirement of royal blood.

— A combination of prestige, capacity and possible service to the nation.

3. TUTOR TO ROYAL PERSONS WHO HAVE NOT YET ATTAINED THEIR MAJORITY CALLED TO THE SUCCESSION OR TO THE INCAPACITATED KING (Art. 12 of the Organic Law of the State).

— Possessing Spanish nationailty.

— Professing the Catholic religion.

4. PRESIDENT, VICE-PRESIDENTS OR MINISTERS OF THE GOVERNMENT (Arts. 14 and 17 of the Organic Law of the State and Art. 3 of the Law of the Cortes).

— Being a Spaniard.

— Having attained one's majority.

— Being in full use of one's civil and political rights.

5. DEPUTY OF THE CORTES (Art. 3 of the Law of the Cortes).

— Being a Spaniard.

— Having attained one's majority.

— Being in full use of one's civil and political rights.

3. NOMINATION PROCEDURE

I. KING.

A) *Appointment by the present Head of State* (Arts. 6 and 7 of the Law of Succession).

— The Head of State may propose at any moment to the Cortes the person whom he considers should be called to succeed him.

— He may propose to the Cortes the revocation of the person he had proposed to succeed him, even though that person might have already been accepted by the Cortes.

— The person called must fulfil the conditions necessary to be King, when the Crown has not been restored.

— Once the Headship of State becomes vacant, the successor shall be called.

— The Regency Council shall assume powers in the name of the successor and shall convoke the Cortes and the Council of the Realm to witness the oath to be taken by the Successor and to proclaim him King.

B) *Absence of Successor until the Monarchy is restored* (Art. 8 of the Law of Succession).

— Upon the death or declared incapacity of the Head of State, the Regency Council shall assume power.

— The Regency Council shall convoke, within three days, the members of the Government and of the Council of the Realm.

— Those gathered together, in uninterrupted and secret session, shall decide, by a two-thirds majority of those present, which shall be considered at least to be the absolute majority, which person of royal blood and pos-

sessing the qualities required to be King they should propose to the Cortes.

— The Cortes may or may not accept the proposal.

— If the proposal is not accepted, a second roposal shall be put forward in favour of the person of royal blood who fulfills the legal conditions.

— The Cortes may or may not accept the second proposal.

— Upon obtaining a favourable decision, the Successor shall take the oath before the Cortes and, immediately thereafter, the Regency Council shall transfer its powers to him.

C) *When the Crown has been restored* (Art. 11 of the Law of Succession).

— The Successor shall be appointed automatically.

— The Successor receives his right in accordance with the regular order of succession, described in sub-paragraph 1, B).

— In case the heir to the Crown, by said order should have attained the age of thirty years, he shall exercise the Headship of State as King, upon the death of the person occupying the Throne.

— If he has not yet attained the age of thirty years, said functions shall be exercised by a Regent.

— Said functions shall be exercised by the heir who has attained the age of thirty years in the event the King should be declared incapacitated.

— In all cases, before exercising the functions of Head of State, as King, the heir shall swear allegiance to the Fundamental Laws and to the principles informing the National Movement.

II. REGENT.

A) *Appointment by the present Head of State* (Art. 6 of the Law of Succession).

— At any moment the Head of State may propose the appointment of a Regent.

— The proposal shall be made to the Cortes.

— The Regent must fulfil the conditions necesary to be King, with the exception of the requirement of royal blood.

— The Head of State may submit to the Cortes the revocation of the Regent proposed, even though he might have been accepted by the Cortes.

B) *In the event of the death or declared incapacity of the Head of State, the Monarchy not having been restored* (Art. 8 of the Law of Succession).

— Until such time as the Regent is appointed, the Regency Council shall assume power.

— When, in the opinion of the members of the Government and the Council of the Realm, gathered together to decide on the person to be proposed to the Cortes as King, there are no persons existing who fulfil the necessary conditions, or when the Cortes do not accept such persons, a Regent shall be proposed.

— There should be proposed as Regent the person who by virtue of his prestige, capacity and possible service to the Nation, should hold this office.

— When the proposal is formulated, the term and conditions of the duration of the Regency may be stated.

— The Cortes shall decide upon the appointment, as well as on the term and conditions, of the Regency.

— If the proposal is not accepted, new proposals shall be submitted until the approval of the Cortes has been obtained.

— The Assembly of the Cortes shall be held within the maximum period of eight days as from the date of each proposal.

— Once the favourable vote of the Cortes has been obtained, the Regent take the oath demanded before the Cortes.

— Immediately following, the Council of the Regency shall hand over all powers to him.

C) *Instauration of the Crown* (Art. II of the Law of Succession).

— In the event that the incapacity of the King is recognized and the Cortes should declare the installation of the Regency, because the Heir has not attained the age of thirty years, the public functions of the King shall be exercised by a Regent.
— When the throne becomes vacant and the Heir to the Crown has not attained the age of thirty years, his public functions shall be exercised by a Regent.
— The appointment of Regent shall be executed in the manner indicated in the preceding paragraph.
— In both cases ,the Regency shall come to an end when the reason motivating its presence ceases to exist.

III. PRESIDENT OF THE GOVERNMENT (Art. 14 of the Organic Law of the State).

— The Council of the Realm shall present to the Head of State the proposal of three candidates.
— The Head of State shall appoint the President of the Government from among the three persons proposed.

IV. MEMBERS OF THE GOVERNMENT (Art. 17 of the Organic Law of the State).

— The President of the Government shall propose to the Head of State the persons who should be appointed members of the Government.
— The Head of the Government shall effect their appointment.

V. DEPUTIES OF THE CORTES (Art. 2 of the Law of the Cortes).

A) *Non-elective Members*: Tthe following members have a right to be Deputies of the Cortes by virtue of the office they hold: Members of the Government, Members of the National Council; President of the Supreme Court of Justice, President

of the Council of State, President of the Supreme Council of Military Justice, President of the Court of Exchequer of the Kingdom and President of the National Economic Council; University Rectors, President of the Spanish Institute, President of the Council of Advanced Scientific Research and President of the Institute of Civil Engineers.

B) *Elective Members*:

a) Representing the Family:

Two family representatives for each province, elected by those who appear in the electoral rolls as heads of families and by married women, in the manner established by law.

b) Representing Provincial and Municipal Corporations:

One representative of the Municipalities of each province, elected by the Town Council from among its members, and another representative for each Municipality of over 300,000 inhabitants, and those of Ceuta and Melilla, elected by the respective Town Councils from among their members. One representative for each Provincial Deputation and the Canary Island District, elected by the respective Corporations from among their members, and the representatives of the Local Corporations of territories not consituted as provinces [153], elected in the same manner.

c) Representing Spaniards contributing to the labour force and production, and belonging to the Trade Union Organization:

One hundred and fifty representatives.

d) Rpresenting the Royal Academies and the Council of Advancel Scientific Research:

Two representatives elected from among the members of the Royal Academies constituting the Spanish Institute, and two representatives of the Council of Advanced Scientific Research elected by its members.

e) Representing Associations, Professional Colleges and Chambers:

One representative of the Associations of Engineers constituting the Institute of Civil Engineers; two representatives of the Colleges of Lawyers; two representatives of the Medical Col-

[154] In the former legislation, this number was 50.

leges; one representative for each of the following Colleges: Stock Exchange Agents, Architects, Economists, Pharmacists, Licentiates and Doctors of Political Science, Licentiates and Doctors of Science and Letters, Licentiates and Doctors of Chemical and Physico-Chemical Sciences, Notaries, Court Attorneys, Property Recorders, Veterinary Surgeons and other Professional Colleges of higher academic status which may be recognized for this purpose in the future, and which shall be elected by the respective Official Colleges.

Three representatives of the Official Chambers of Commerce; one representative of the Chambers of Urban Property and one of the Tenant Associations, elected by their Boards or representative organs. All those elected under the provisions of this subparagraph must be members of the respective Colleges, Corporations or Associations electing them.

C) *Deputies appointed by the Head of State*:

— A number not exceeding 25 may be appointed [154].
— Appointment should be based on ecclesiastical, military or administrative status, or on relevant service to the country.

VI. MEMBERS OF THE NATIONAL COUNCIL (Arts. 21 and 22 of the Organic Law of the State).

A) *Elective Members*:

a) By Province:

One elected for each province.

b) By the basic structures of the National Community:
— Four elected from among members by the Deputies of the Cortes representing the family.
— Four elected from among members by the Deputies of the Cortes representing Local Corporations.
— Four elected from among members by the Deputies of the Cortes representing the Trade Union Organization.

[153] The Autonomous Territories of Fernando Poo and Río Muni.

B) *Members appointed by the Head of State*:

— Forty Member appointed by the present Head of State from among persons with recognized services. These Members shall retire upon reaching the age of seventy-five years.

The vacancies arising in the future shall be filled by election, through a proposal of three candidates from this group of Members to the National Council in Plenary Session.

C) *Members freely appointed by the President of the Council*:

— Six Members appointed by the President of the Council. The appointments should be made from among persons who render relevant services towards the ends of the National Council.

VII. PRESIDENT OF THE CORTES (Art. 7 of the Law of the Cortes).

— The Council of the Realm shall propose three persons as Deputies of the Cortes.
— The Head of State shall appoint the President from among the three candidates proposed.
— His nomination shall be approved by the active President of the Council of the Realm.

VIII. PRESIDENTS OF THE SUPREME COURT OF JUSTICE, THE COUNCIL OF STATE, THE COURT OF EXCHEQUER OF THE KINGDOM AND THE NATIONAL ECONOMIC COUNCIL (Art. 58 of the Organic Law of the State).

— Three candidates shall be proposed by the Council of the Realm.
— The Head of State shall make the appointment.

4. DUTIES AND RESPONSIBILITIES

1. HEADSHIP OF STATE.

1.1. Sovereignty.

— The State is responsible for the exercise of Sovereignty.
— Sovereignty shall be exercised through the appropriate Organs.
— The Head of State shall personify National Sovereignty.

1.2. Supreme Command of the Armed Forces.

The Head of State exercises the Supreme Command of the Amy, the Navy and the Air Force.

1.3. Justice.

— Justice is administered in his name.
— He exercises the prerogative of Pardon.
— He appoints the President of the Supreme Court of Justice, at the proposal of three candidates by the Council of State.

1.4. International Agreements, declaration of war and signing of peace.

— He needs a Law to ratify international Treaties or Agreements that affect the full sovereignty of the integrity of Spanish territory, and to declare war and to sign treaties of peace.
— The Law may be subrogated by agreement or authorization of the Cortes.

1.5. Government.

— He directs the government of the Kingdom through the Council of Ministers.

— He appoints the Ministers at the proposal of the President of the Government.

1.6. Fundamental Laws.

He must submit to the referendum of the nation those Bills (draft laws) that derogate or modify the Fundamental Laws of the nation.

1.7. Dispositions.

— He may not issue dispositions that should take the form of law except in the cases and in the manner prescribed in the laws (Arts. 10 and 12 of the Law of the Cortes).
— He may issue other dispositions, as for example:

a) For reasons of urgency, in the judment of the Head of State, he may sanction Decree-Laws (with the force of law). If the Principles of the National Movement or the other Fundamental Laws of the Kingdom should be in jeopardy, the Committee mentioned in Article 12 of the Law of the Cortes may so advise the Standing Committee.
b) The Government may submit for the sanction of the Head of State dispositions with the force of law according to the authorization granted expressly for this purpose by the Cortes.

1.8. Approval of the acts of the Head of State.

Any disposition of the Head of State shall be invalid if it does not have the approval, as the case may be, of the president of the Government or the Minister concerned, the President of the Cortes or the President of the Council of the Realm.

1.9. National Leadership of the Movement.

The National Leadership of the Movement shall be exercised by the Head of State, and, at his delegation, by the President of the Government.

1.10. Appointments.

The Presidents of the Supreme Court of Justice, the Council of State, the Court of Exchequer of the Kingdom, the National

Economic Council and the Cortes are appointed by the Head of State from among three candidates proposed by the Council of the Realm.

1.11. Excepcional faculties.

The attributions granted to the Head of State by the Laws of 30th January, 1938, and 8th August, 1939, as well as the prerogatives bestowed on him by Articles 6 and 13 of the Law of Succession, shall subsist and remain in force until the eventuality mentioned in Transitory Disposition One, paragraph 1, of the Transitory Dispositions of the Organic Law.

II. GOVERNMENT OF THE NATION

2.1. Spanish Government and State.

— The Head of State directs the government of the Kingdom.
— For this purpose, he acts through the Council of Ministers.

2.2. Council of Ministers: Functions.

— Determines national policy.
— Ensures the application of the laws.
— Exercises the power of making regulations (the faculty of dictating juridical norms of a general nature promulgated by the Administration for the fulfilment of its own ends).
— Permanently assists the Head of State in political and administrative matters.

2.3. Power of making regulations.

a) The Administration may not:

— Issue dispositions contrary to the Laws.
— Nor regulate those matters falling within the exclusive competence of the Cortes.

— The exceptions, exercised through Decree-Laws and dispositions with the force of law, are those indicated in sub-paragraph 1.7. *a*).

b) The decisions of the Government shall always have the approval of the President of the Government or of the Minister concerned.

c) It is the responsibility of the Government, in respect of the General Budgets of the State:

— To agree to the text of the Bill on the General Budgets of the State; the Cortes are responsible for approving, returning or amending it.
— Upon the approval of the General Budget of the State, only the Government may present Bills (draft laws) that involve an increase in public expendidure or a decrease in revenue.
— To give its approval for the presentation of all proposed laws or amendments to proposed laws that involve an increase in expenditure or a decrease in revenue.

2.4. Relation with the Cortes.

— The President of the Cortes prepares, in agreement with the Government, the agenda of this Legislative Body, both for Plenary Sessions and for Committees.
— The Committees of the Cortes are established and appointed by the President of the Cortes, in agreement with the Government.
— The Cortes shall be immediately informed of the appointment of a new Government and of the replacement of any of its members.

2.5. The Government and the Armed Forces.

The National Defence Junta shall propose to the Government the general lines concerning:

— Security.
— Defence of the nation.

III. PRESIDENT OF THE GOVERNMENT

3.1. Functions.

— Representing the Government of the Nation.
— Directing general policy.
— Ensuring the co-ordination of all the Organs of the Government and the Administration.
— Exercising, in the name of the Head of State, the National Leadership of the Movement and, in this capacity, presiding over the National Council and its Committees.

3.2. Power of making regulations.

— All resolutions made by the Head of State in the exercise of his authority must be approved by the President of the Council of Ministers, when such approval is a matter of his concern.

3.3. Responsabilities.

— He is responsible in solidum for the Resolutions taken by the Council of Ministers
— He is individually responsible for the acts he performs or authorizes in his Department.
— He has full and civil responsibility before the Supreme Court of Justice in plenary session, in respect of acts related to the exercise of his functions as President.

3.4. Appointments and retirements.

— He proposes to the Head of State the appointment of the other members of the Government.
— He appoints six Members of the National Council from among persons who render services towards the ends of the National Council .
— He proposes to the Head of State the retirement of the members of the Government.
— He proposes to the Head of State the acceptance of the resignation of a member of the Government, at his own request.

3.5. Participation in other Agencies.

— He is a non-elective Deputy of the Cortes.
— He is a member of the National Defence Junta.

IV. OTHER MEMBERS OF THE GOVERNMENT

4.1. Faculties.

— Supporting all the resolutions of the Head of State in the exercise of his authority, when these affect matters of their concern (subject to Law or Juridical Procedure in the Administration of the State, Art. 14, revised text, Decree of 26th July, 1957).
— Other faculties indicated in Article 14 of the Law of Juridical Procedure in the Administration of the State.

4.2. Responsibilities.

Those indicated by the President of the Government.

4.3. Participation in other Agencies.

— Deputies of the Cortes.
— The National Defence Junta shall have as members the Ministers of the Army, Navy and Air Force, and those whose presence may be warranted by the nature of the questions under consideration.

V. COUNCIL OF THE REALM AND REGENCY COUNCIL

5.1. Functions of the Regency Council.

A) When the Crown has not been restored, it shall assume the powers of the Head of State until the King or Regent proposed is accepted by the Cortes and takes the required oath.

B) When the Crown has been restored.

It shall exercise the public functions of the King, until the appointment of the Regent is accepted by the Cortes and the Regent takes the required oath, in the following cases:

— When the Heir to the Crown has not attained the age of thirty years at the moment the Throne becomes vacant.
— When, because of the incapacity of the King, in the manner prescribed, the Cortes agree to the installation of the Regency, the Heir not having attained the age of thirty years.

5.2. Functions of the Council of the Realm.

A) Appointments.

— It shall draw up a list of three candidates for the appointment of the President of the Cortes, the President of the Supreme Court of Justice, President of the Council of State, President of the Court of Exchequer of the Kingdom and President of the National Economic Council.
— It shall draw up a list of three candidates for the appointment of President of the Government, who shall be appointed by the Head of State.

B) Advisory functions.

— It shall give counsel and make recommendations to the Head of State.
— It shall assist the Head of State in the following matters:

a) Proposing to the Cortes acts requiring a Law, resolution or authorization of the Cortes in connection with international treaties or agreements (which affect the sovereignty or integrity of the national territory), or the declaration of war and the signing of peace treaties.
b) Proroguing a legislative term provided it be:

— For a serious reason.
— And for the warranted period .

c) Taking exceptional measures in determined circunstances.
d) Intervening on Referendum questions when a Referendum is not obligatory.

C) On questions concerning the succession:

a) When the Crown has not been restored.

— Proposing, jointly with the Government, to the Cortes the persons of royal blood who should be appointed King.
— Formulating a second proposal in respect of the appointment of the King.
— In the event the person proposed as King is not accepted, proposing a Regent, jointly with the Government.

b) When the Crown has been restored.

— Proposing, jointly with the Government, a Regent in the event the Throne becomes vacant and the heir has not yet attained the age of thirty years.
— Proceeding in the same manner when, because of the incapacity of the King. duly recognized, the Cortes declare the installation of the Regency, the heir not having attained the age of thirty years.

c) Similarly it shall inform the Council of the Realm for approval by the Cortes of the nation:

— All cessions of rights before the parties concerned come to the Throne.
— All abdications when the Successor has been named.
— All renouncements.
— All royal marriages, as well as those of immediate successors.

5. PROCESS OF DEMOCRATIZACION

1. One of the salient features of the National Council, in its capacity as collegiate representative of the Movement, is that it is an organ open to all Spaniards and is entrusted with the task of channelling contrasting opinions on political action.

2. The Cortes have been converted into the single legislative Organ of the Nation, being responsible for "the elaboration and approval of laws". Formerly, the Cortes only "prepared and elaborated" the laws. Municipal representation may be effected through any councillor, as opposed to the former system, which limited it to mayors appointed by the Government.

Formerly non-existent, direct family representation has been introduced, through the election of 104 Deputies (two for each province) by the heads of families and married women.

The number of Deputies freely appointed by the Head of State has been reduced by one-half — from fifty to twenty-five.

It has been proclaimed that all Deputies must be allowed freedom of action in the service of the Nation and the common good, and my not be bound by any imperative mandate.

Under the former system, the principal offices of the Cortes were subject to appointment by Decree of the Head of State. Apointments of the following are now on an elective basis: the President, at the internal proposal of the Council of the Realm, and the others (two Vice-Presidents and four Secretaries), by the Cortes meeting in Plenary Session, from among the Deputies.

3. A time limit has been set on the sanction and promulgation by the Head of State of the Laws approved by the Cortes.

4. The faculties of the Head of State have been limited as regards returning a Law to the Cortes for further study, by the requirement, for the first time, of the "prior and favourable ruling of the Council of the Realm".

5. The Council of the Realm is now more representative, and 10 of its 117 members are to be elected by the Cortes.

6. The composition and action of the Council of the Realm have been estrengthened and elective basis has been widened by doubling the number of Councillors from Local Administration and the Trade Union Organization, and introducing two new Councillors to represent the family and the group of Members of the National Council.

7. As a guarantee of the principles and norms injured by contrafuero (legislative act or general disposition of the Government that may jeopardize the Principles of the National Movement or the other Fundamental Laws of the Kingdom), an appeal before the Head of State has been established.

8. Formerly, non-Catholics only had the right of not being molested in their religious beliefs, there not being allowed any external manifestations other than those of the Catholic Cult; now, the State guarantees the defence and protection of religious freedom, within the safeguards of morals and public order, in accordance with the ruling of the II Vatican Council.

9. There is naw a formal separation between the Trade Unions and the Government.

10. The representative character of the Trade Union Organization has been strengthened and plans are being made for the constitution of associations of entrepreneurs, technicians and workers, clearly distinct from the respective industrial, agrarian and public service trade unions.

11. Terms with a totalitarian tinge appearing in former Fundamental Laws have been eliminated.

12. There is a separation of the functions of the Head of State from those of the President of the Government, and the latter shall be appointed by the Head of State, at the proposal of three candidates by the Council of the Realm.

Ministers shall be appointed at the proposal of the President of the Government.

13. The National Movement, the communion of Spaniards, promotes political life under a system of the orderly concurrence of criteria.

14. The independence of the Judiciary has been proclaimed by Fundamental Law, and justice shall be administered in the name of the Head of State, in accordance with the Laws, by independent, immovable and responsible Judges and Magistrates.

6. REFERENCE CHART OF SPANISH CONSTITUTIONAL LAWS (BY SUBJECT)

	Organic Law	Fuero Españoles	Constit. Law Cortes	Law of Succession	Law Principles National Movement	Law Referendum	Labour Law
COMMUNITY	Art. 1, I				V & VI		
Man		Art. 1					
Family, Municipality, Trade Union	Art. 1, II				VI & VIII		
Representation	Art. 1, I		Arts. 1 & 2		VIII		
Consideration before the Lew ...		Art. 3			V		
REFORM OF CONSTITUTION.				Art. 10			
DUTIES AND RIGHTS OF SPANIARDS.							
Rights:							
To home		Art. 15					
To associate		Art. 16					
Respect, personal and family honour		Art. 4					
Right to education		Art. 5			IX		V. 2
Religion		Art. 6			II		
Participation in public functions		Art. 11			VIII		
Freedom of expression		Art. 12					
Freedom and secrecy of correspondence		Art. 13					
Freedom of choice of residence.		Art. 14					
Juridical security		Arts. 17 & 19					
Illegal Arrest		Art. 18					
Equality before the Law		Art. 3					
Right of nationality		Art. 20					

Right of petition		Art. 21					
Right to work		Art. 24					1, 3, & 8
Trade Union Organization ...							XIII
Property and expropriation ...		Art. 32			X		XII, 1 & 2
Duties:							
Military Service		Art. 7					
Contribution support, Public Expenditure		Art. 9			IX		
Fulfilment of duty to work . .					X		1, 5
SOVEREIGNTY	Arts. 1 & 2						
National Emblem	Art. 5						
Suffrage		Art. 10	Art. 2	Art. 10	VIII	Arts. 1 & 2	
Political Gatherings	Art. 4				VIII		
HEAD OF STATE ... ... (President of the Republic)	Title II						
Appointment to high office ...	Arts. 6 14, 17 26 & 58		Art. 7				
Functions	Arts. 6, 7, 13						
Appointment of Head of State.				Arts. 6, 7, 8, 9 & 11			
THE GOVERNMENT	Art. 13-20						
Head of State	Art. 6, 13						
President of Government	Arts. 14, 15, 16						
Ministers	Art. 17, 18						
Functions	Art. 13						

	Organic Law	Fuero Españoles	Constit. Law Cortes	Law of Succession	Law Principles National Movement	Law Referendum	Labour Law
THE SPANISH CORTES (Parliament)			Law 17-7-42				
Deputies			Art. 2				
Legality and Hierarchy	Arts. 42, 51 & 52						
Inmmunity of Deputies			Art. 13	Art. 10			
Nullity of imperative mandate.			Art. 5				
Appointment of President			Art. 2 (3)				
RELATION BETWEEN CORTES AND GOVERNMENT ...	Arts. 49, 50, 51, 52, 53, 54						
Oath of allegiance of Head of State and Heir to Crown ...	Art. 50						
Authorizing Head of State ...	Arts. 9 & 50						
Passing of information on Government	Art. 53						
Approval of International Treaties and Agreements	Art. 9		Art. 14				
NATIONAL COUNCIL ... ... (Second Chamber).	Arts. 21-28						
Appeal of "contrafuero"	Arts. 59-66						
Defense of integrity of Principles of Movement	Art. 21						

JUDICIAL AUTHORITY	Arts. 29-36						
Independence of judiciary ...	Art. 29				IX		
Free access to justice	Art. 30						
Judicial competence	Art. 31						
Superintendence of Justice ...	Art. 33						
Immovability of judiciary	Art. 34						
Attorney General's Office	Art. 35						
NATIONAL ECONOMIC COUNCIL	Art. 58						
Appointment of President	Art. 58						
Term of Office	Art. 58						
Retirement of President	Art. 58						
TERRITORIAL GROUPS	Arts. 45-48						
Provinces	Arts. 45 & 46						
Municipalities	Arts. 45 & 46				VI		
Status	Arts. 45 & 46						
Electoral systems	Arts. 45 & 46						
Characteristics	Arts. 45 & 46						

V. ALPHABETICAL OUTLINE OF SUBJECT-MATTER

APPOINTMENTS BY THE HEAD OF STATE.—(Organic Law of the State.)

The President of the Government shall be appointed by the Head of State, at the proposal of three candidates by the Council of the Realm (Art. 41, I).

The other members of the Government shall be appointed by the Head of State at the proposal of the President of the Government (Art. 17, I).

The Presidents of the Supreme Court of Justice, the Council of State, the Court of Exchequer of the Kingdom and the National Economic Council shall be appointed by the Head of State at the proposal of three candidates by the Council of the Realm (Art. 58, I).

The Secretary-General of the National Council shall be appointed by the Head of State at the proposal of the President of the Government (Art. 26).

ARMED FORCES.—(Art. 37, Organic Law of the State and IV Law on the Principles of the National Movement.)

Strength of the nation.
Constituted by: The Army.
The Navy.
The Air Force.
Forces of Public Order.
They guarantee: The integrity of the territory.
National security.
The defence of the intituional system.

ATTORNEY-GENERALS' OFFICE.—(Art. 35 of the Organic Law of the State.)

The organ of communication between the Government and the ordinary Courts of Justice:

Mission: *a*) To promote the action of justice in detence of the public interest protected by the Law.
b) To procure the maintenance of the juridical system and the satisfaction of social interest.

CORTES.—(Constitutive Law of the Cortes, of 117th July, 1942.)

It is the role of the Cortes to elaborate and approve the Laws, without prejudice to the sanction residing in the Head of State.

They constitute the highest organ of participation by the Spanish people in the affairs of the State.

They are composed of non-elective and elective Deputies and those freely appointed by the Head of State.

DEPUTIES OF THE CORTES.—(Law 17th July, 11942, Art. 2.)

Non-elective: By reason of office held.
Appointed by Head of State: Up to 25.
Elective: Representing the Family.
Representing the Trade Union Organization.
Representing the Provincial & Municipal Corporations.
Representing the Royal Academies.
Representing Scientific Research.
Representing Associations (Societies), Professional Colleges, Chambers of Commerce, and Urban Property, and Tenant Associations.
They represent: The Spanish people.
They shall serve: The Nation and the common good.

ENTERPRISE.--(Fuero de los españoles, Art. 26; Labour Law, VIII; Principles of the National Movement, XI.)

Elements: Technical skill, labour and capital in their various forms.
Hierarchy: Economic values are subordinate to those of a human nature, to the interests of the Nation and to the demands of the common good.
Profit: Based on a fair interest on capital.
Management: Shall be responsible for the contribution of the firm to the common good of the national economy.
It is an association of men and means linked with production.

ENDS OF THE STATE.—(Art. 3 of the Organic Law of the State.)

Defence of unity between the peoples and domains of Spain.
Maintenance of the intergrity, independence and security of the nation.
Safeguarding of the spiritual and material patrimony of Spaniards.
Protection of the rights of the persons, the family and society.
Promotion of a social order based on justice in which all private interest is subordinate to the common good.

FOREIGN AFFAIRS.—(Organic Law of the State, Art. 9, and Art. 14 of Constitutive Law of the Cortes.)

The Head of State: *a*) Ratifies international treaties or agreements.
b) Shall declare war and agree to peace.

The Cortes: The ratification of international treaties or agreements that affect the full sovereignty or the integrity of Spanish territory shall be the object of a Law approved by the Cortes.

The Cortes shall be heard, in Plenary Session or in Committee, for the ratification of treaties (unlike the preceding), which affect matters whose regulation falls within their competence, in accordance with Articles 10 and 12 of the Law of the Cortes.

GOVERNMENT OF THE NATION.—(Art. 13 of the Organic Law of the State.)

The Head of State directs the government of the kingdom through the Council of Ministers.

Constitution: President of the Government.

Vice-President or Vice-Presidents.

Ministers.

Functions: Determines national policy.

Ensures the application of the laws.

Exercises the power of making regulations.

Permanently assists the Head of State in political and administrative matters.

GUARANTEE OF THE CONSTITUTIONALITY OF THE LAWS.—(Arts. 59-66 of the Organic Law of the State.)

This is exercised through the Appeal of Contrafuero.

A Contrafuero is any legislative act or general disposition of the Government that contravenes the Principles of the National Movement or the other Fundamental Laws of the Kingdom.

It may be promoted through:

a) The National Council, in all cases, by resolution adopted by two-thirds of the members.

b) The Standing Committee of the Cortes in Government dispositions of a general nature, through resolution adopted by a two-thirds majority of its members.

The resolution that annuls as a Contrafuero the legislative act or Government disposition of a general nature; the object of the appeal, requires the immediate publication in the official Gazette of the nullity granted, with the latitude proper to the case defined.

GUARANTEES.—(Fuero de los Españoles.)

Spaniards have a right to political, juridical and administrative guarantees.

They have duties in respect of military service and obligation to contribute to the support of public expenditure according to their economic capacity.

HEAD OF STATE.—(Art. 6 of the Organic Law of the State.)

Supreme representative of the nation.
Personifies national sovereignty.
Exercises supreme political and administrative power.
Holds the national Leadership of the Movement.
Safeguards the strictest observance of the principles of the Movement and other Fundamental Laws of the Kingdom.
Guarantees and ensures the regular functioning of the high organs of the Sstate and the proper co-ordination between them.
Sanctions and promulgates laws and provides for their execution.
Exercises the supreme command of the Army, the Navy and the Air Force.
Safeguards the maintenance of public order at home and the security of the State abroad.
Justice is administered in his name.
Exercises the prerogative of Pardon.
Confers, in accordance with the laws, posts, public offices and honours.
Accredits and receives diplomatic representatives.
Performs whatever acts are required of him by the Fundamental Laws of the Kingdom.

JUSTICE.—(Arts. 29-35 of the Organic Law of the State and IX Law on the Principles of the National Movement.)

Administration: In the name of the Head of State.
Independence: Shall enjoy complete independence.
Shall be adapted to: Tthe Laws.
Shall be administered by: Judges and Magistrates who are independent, immovable and responsible in accordance with the Law.
Access to Justice: All Spaniards.
Shall be free: For those lacking economic means.

ECCLESIASTICAL JUSTICE.—(Art. 32, II, of the Organic Law of the State.)

Scope: As established in the Concordat with the Holy See.

MILITARY JUSTICE.—(Art. 32, I, of the Organic Law of the State.)

Order: Exceptional.
Norms: Laws and dispositions regulating it privately.

LABOUR.—(Law on the Principles of the National Movement, X; Fuero de los Españoles, Arts. 24 and 25, and Labour Law.)

Definition: The origin of hierarchy.
All Spaniards have the right to work.

All Spaniards have the right to occupy themselves in some socially useful activity.

Labour may not be relegated to the material concept of merchandise.

Labour may not be the object of any transaction incompatible with the personal dignity of the worker.

Labour is an attribute of honour.

It is sufficient in itself to demand the protection and assistance of the State.

Wages shall be, at least, sufficient to afford the worker and his family a moral and honourable life.

LOCAL ADMINISTRATION.—(Arts. 43 and 44 of the Organic Law of the State and VI Principle of the National Movement.)

Organization: Municipality.
Province.
Other territorial divisions.

Representation: Municipal and provincial corporations shall be elected by joint vote.

Spaniards shall participate in the vote through the family, the Municipality and the Trade Union, without prejudice to other representations established by law.

MUNICIPALITY.—(Arts. 45 and 46 of the Organic Law of the State and VI Principle of the Movement.)

Character: Natural entity.
Constitution: Basic structures of the National Community.
Grouping: Territorially in provinces.
Status: Juridical status and full capacity for the fulfilment of its ends, in the terms prescribed by Law.
Other functions: In co-operation with the State.
Electoral system.
Town Council: Joint vote through the Family, Municipality, Trade Union or other representatives established by Law.

NATIONAL EMBLEM.—(Organic Law of the State, Art. 5.)

The national flag is composed of three horizontal stripes —red, yellow and red— the yellow being twice the width of the red.

NATIONAL PRODUCTION.—(Labour Law, XI.)

Constitutes: Economic unity in the service of the country.
All other factors are subordinate to the supreme interest of the nation.
Output: Wilful decrease shall be subject to sanction.
Competition: The State shall prevent:

a) Unfair competition in the field of production.

b) Activities that hinder the normal development of the national economy.

Stimulus: *a*) All initiative contributes to the benefit of production.

b) Private initiative is the fruitful source of the economic life of the nation.

ORGANIZATION OF THE STATE.—(Art. 1, 2, Organic Law of the State.)

Principles: Unity of power and co-ordination of functions.
Supreme Representative of the Nation: Head of State.
Functions: Legislative, executive and judicial.
Legislative function The Cortes.
Executive function: Government of the nation.
Judicial function: Administration of justice.

PERSONIFICATION.—(Organic Law of the State, 1, 6, 46; Labour Law, XIII.)

Spanish State: Supreme institution of the National Community.
Head of State: Supreme representative of the nation.
Personifies national sovereignty.
Municipalities and Provinces: Have juridical status and full capacity for the fulfilment of their ends.
Trade Unions: Have juridical status and functional capacity for the fulfilment of their ends.

POLITICAL GATHERINGS.—(Art. 4 of the Organic Law of the State.)

Political System: Open to all Spaniards.
Intervention in political system: Concurrence of criteria.

NATIONAL COMMUNITY.—(Art. 1, I, of the Organic Law of the State and V and VI of the Fundamental Law on the Principles of the Movement, Art. 2 of the Law of the Cortes.)

Foundation: Man, as the bearer of eternal values.
The family, as the basis of social life.
Basic Structures Family, Municipality and Trade Union (natural entities).
Consideration before the Law: The Law protects all Spaniards in equal measure.
Institutionalization: The Spanish State is the supreme institution of the National Community.
Representation: All the Deputies of the Cortes represent the Spanish people.

PRINCIPLE OF LEGALITY AND HIERARCHY OF NORMS.—(Article 10, Law of Succession; Arts. 43 and 51, Organic Law of the State.)

Constitutional level: Principles of the National Movement, Labour Law, Fuero de los Españoles, Constitutive Law of the Cortes, Law of Succession, Law of Referendum and Organic Law of the State.

Ordinary legal reservation: All questions covered in Articles 10 and 112 of the Law of the Cortes, except:

a) With express authorization of the Cortes.

b) When external security, the independence of the nation, the integrity of its territory or the institutional system of the Kingdom is under grave and immediate threat.

Nullity of dispositions: Those administrative dispositions shall be null and void that are contrary to the laws or which regulate, save by express authorization, those matters which fall within the exclusive competence of the Cortes.

Those Laws approved by the Cortes which modify or derogate the provisions of the Fundamental Laws, when they have not been submitted to Referendum, shall be subject to the Appeal of Contrafuero, in accordance with Article 3 of the Fundamental Law on the Principles of the National Movement. Any Laws or dispositions that injure or defame the Principles proclaimed by said Fundamental Law shall be null and void.

Hierarchy: Fundamental Laws.
Laws approved by the Cortes.
Decree-Laws.
Legislative Decrees.
Decrees approved by the Council of Ministers.
Orders approved by the Council of Ministers.

PRIVATE PROPERTY.—(Labour Law, XII, and Fuero de los Españoles, Arts. 30, 31 and 32.)

Treatment: The State recognizes and protects it.

Functions: Individual, family and social.

All forms of property are subordinate to the supreme interest of the nation.

Access: The State assumes the task of increasing and making accessible to all Spaniards the forms of property vitally linked to the human person.

Expropriation: For just cause for public utility or social interest. Corresponding indemnities must be paid.

PROVINCE.—(Arts. 45 and 46. Organic Law of the State.)

Definition: District determined by the grouping of Municipalities. Territorial divisón of the Administration of the State.

Status: Juricical status and full capacity for the fulfilment of its particular ends.

Other functions: In co-operation with the State.

System of election: Joint vote through the family, Municipality, Trade Union or other representation established by Law.

RELATIONS BETWEEN HIGH ORGANS OF STATE.—(Organic Law of the State, Atrs. 49, 51, 55, 56, 57 and 58, and XIII of Labour Law.)

Head of State with the Cortes.

Head of State with the Council of the Realm.

President of the Government and Ministers with the Cortes.

Court of Exchequer of the Kingdom with the Cortes.

Head of State with Supreme Court of Justice, Council of State. Court of Exchequer of the Kingdom and National Economic Council.

Trade Unions with the State.

RELIGION.—(Art. 6, Fuero de los Españoles, and II, Principles of the National Movement.)

The Catholic Religion is the religion of the Spanish State.

The Catholic Religion shall enjoy official protection.

The State shall assume the protection of religious freedom.

Protection shall be guaranteed by an efficacious juridical system which at the same time, shall safeguard morals and public order.

The Catholic Religion shall inspire legislation.

REPRESENTATION.—(Organic Law of the State, Arts. 21, 46 & 61; Labour Law, XIII.)

Deputies: Tthe Spanish people.

Head of State: Supreme representative of the nation.

Personifies national sovereignty.

Municipal & provincial corporations: Represent the Municipality and the Province.

Trade Unions: Represent professional and economic interest for the fulfilment of the ends of the community.

National Council: Collegiate representation of the Movement.

REVISION OF THE CONSTITUTION.—(Art. 10, Law of Succession.)

It is an open Constitution, thus allowing for reforms and improvements.

Any modification or derogation of the Spanish constitutional Laws require, not only the approval of the Cortes, but a national Referendum.

SECOND CHAMBER.—(Organic Law of the State, Arts. 21-28.) (National Council.)

Definition: Collegiate representative of the Movement.

Promotes: The adjustment of the laws and general disposition to the Principles of the National Movement and other Fundamental Laws.

Exercises: Appeal of Contrafuero.

Recommends: To the Government precise measures for the greater effectiveness of the Principles of the Movement and other Fundamental Laws of the Kingdom.

Examines and informs: Any Bills or amendments of Fundamental Laws, before presentation to the Cortes.

Brings to the notice of the Government Reports and Memoranda it considers advisable.

SOVEREIGNTY.—(Ats. 1 and 2 of the Organic Law of the State.)

Exercise: By the State through the Organs established for the purposes to be fulfilled.

Characteristics: Sovereignty is one and indivisible, and is not susceptible to delegation or cession.

STRUCTURE OF THE STATE.—(Art. 1, I, of the Organic Law of the State and VII of the Law on the Principles of the National Movement.)

Political structure: Traditional monarchy.

Characteristics: Cotholic, social and representative.

SUFFRAGE.—(Law of Referendum, Art. 2; Law of Succession in the Headship of State, Art. 10; Law on Principles of National Movement, VII; Law of the Cortes, Art. 2; Fuero de los Españoles, Artice 10.)

By Referendum: When it is necessary to derogate or modify the Fundamental Laws of the nation.

It is open to all men and women of the nation over the age of twenty-one years.

Other forms of representation: Through the Family, the Municipality, the Trade Union and other entities with organic representation recognized by the laws for this purpose.

Participation in the Cortes: The Cortes are the highest organ of participation by the Spanish people in the affairs of the State.

TRADE UNION.—(Labour Law, XIII.)

Juridical standing: Public Law.

Status: Has juridical status and full functional capacity within its respective terms of reference.

Basis: Representative.

Asociations: Within the Trade Unions shall constitute associations of entrepreneurs, technicians and workers.

Ends: Channel of professional and economic interests of the fulfilment of the ends of the national community.

Collaboration: In studies of production problems. May propose solutions and intervene in: Regulations, Vigilance and Fulfilment of conditions of work.

Research: May create and maintain agencies for research, moral, cultural and vocational training, social welfare, and other activities of a social nature.

TRADE UNION ORGANIZATION.—(Labour Law, XII.)

Spaniards participating in labour and production.

Character of Trade Unions: Public Law Corporation.

Status: Full juridical capacity and full functional capacity.

Activity: Free and representative participation in the respective association of entrepreneurs, technicians and workers organized for the defence of particular interests. The Trade Unions are the channels of professional and economic interests for the fulfilment of the ends of the national community, having the representation of such interests.

VI. APPENDIXES

Although not of a fundamental character, it is considered advisable to terminate this volume with two important laws which complete the dispositions of the Fundamental Laws.

ORGANIC LAW OF THE MOVEMENT AND ITS NATIONAL COUNCIL

of 26th June, 1967 (1)

On complementing the Fundamental Laws of Spain, the Organic Law of the State of 10th January, 1967, includes in its articles the basic precepts relative to the Movement and its National Council, as collegiate representation of the former, resolving that in the briefest possible time provisions shall be drafted leading to the proper effectiveness of the same.

The present Law covers such provisions inasmuch as the Organic Law, on the one hand, in its fourth article fixes the general concept of the National Movement which, open to all the Spanish people who commune in its Principles is entrusted, for a better service to the Nation, with promoting political life in a system of orderly concurrence of criteria, and in its IV article regulates the composition and ends of the National Council.

The Fundamental Law covering the said collegiate body is now evolved, determining those precepts which require legal status and amongst these the judicial and specific aspects of the corresponding elections for complementing the constitution of the Cortes in the new legislature.

In respect of the organization of the Movement, the general terms of the same are laid down, allowing the present organizations to remain in force until such time as the National Council, under its new constitution, proceeds to examine and submit the organic modifications considered to be most adequate for the best observance of the ends which the Organic Law of the State has assigned to it.

In virtue whereof and in conformity with the Law approved by the Spanish Cortes, I resolve:

I. THE NATIONAL MOVEMENT

Article One.

In virtue of the provisions contained in article 4 of the Organic Law of the State, the National Movement, the communion of the Spanish people in the Principles promulgated by the Fund-

[1] *Official Bulletin of the State* of 1st July 1967.

amental Law of 17th May, 1958, informs the political system open to all Spaniards, and for the better service to the country promotes political life on the basis of an orderly concurrence of criteria.

Article Two.

I. The National Movement acts by means of:
a) The National Leadership.
b) The National Council.
c) The General Secretariate.
d) The Provincial and Local Councils.
e) The organizations and entities which may be considered advisable for the fulfilment of its ends.

II. The composition of the Local and Provincial Councils will be of a representative nature.

III. The National Movement and its entities and organizations are open to all Spaniards prior to their expressed acceptance of allegiance to its Principles and other Fundamental Laws of the Realm, in the manner established at the proposal of the National Council. This participation shall be understood and regulated in such a manner that full respect for the liberty of the individual shall be guaranteed and shall permit legitimate differences of opinion.

IV. In the terms of Principle VIII of the Fundamental Laws of 17th May, 1958, which defines the representative character of public order, the National Movement ensures the responsible participation of the Spanish people in public life, endeavouring that plurality of opinions shall be directed and developed at the service of national unity and the common good.

Article Three.

I. The Yoke and Arrows, symbol of the unity of the Nation, definitely incorporated to the coat of arms of the country, constitutes the emblem of the Movement.

II. The flags, emblems and symbols of the National Movement, testimony of its writ of execution and of Spain's tradition, are protected by the laws.

II. THE NATIONAL LEADERSHIP OF THE MOVEMENT

Article Four.

I. In accordance with the provisions in article 6 of the Organic Law of the State, the Head of State is vested with the National Leadership of the Movement and ensures the strictest observance

of its Principles and other Fundamental Laws of the Kingdom, as well as the continuity of the National Movement.

II. The Head of the State shall preside, should he think it advisable, the debates of the National Council and request reports of the same, in accord with the provisions contained in paragraphs f) and h) of article 7 of the Organic Law of the State.

Article Five.

The President of the Government, in the name of the Head of the State, exercises the National Leadership of the Movement, assisted by the National Council and the Secretary-General, in accordance with the provisions contained in paragraph V of article 14 of the Organic Law of the State [2].

III. THE NATIONAL COUNCIL

Article Six.

The collegiate representation of the Movement corresponds to the National Council.

Article Seven.

In accordance with the contents of article 21 of the Organic Law of the State, the National Council as collegiate representative of the Movement has the following ends:

a) To strengthen the bonds of unity among the people and domains of Spain.

b) To defend the integrity of the Principles of the National Movement and to ensure that the transformation and development of the economic, social and cultural structures are adapted to the demands of social justice.

c) To safeguard the development and exercise of the rights and liberties recognized by the fundamental laws and to stimulate the real and efficacious participation of the natural entities and of public opinion in political affairs.

d) To contribute to the training of Spanish youth in allegiance to the Principles of the National Movement and to bring new generations into the collective enterprise.

e) To channel within the Principles of the Movement, the contrast of opinions on political action.

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[2] See transitory disposition I of this Law.

f) To safeguards the permanence and standards of the National Movement itself [3].

Article Eight.

The National Council will promote the training of women and will further their full participation in national life.

Article Nine.

For the purpose of adapting the development and transformation of economic and social structures to the demands of social policy, the National Council shall stimulate the action of the Trade Union Organization defined in Declaration XIII of the Labour Charter.

Article Ten.

In virtue of the provisions of article 23 of the Organic Law of the State for the fulfilment of the ends outlined in the previous articles, the National Council shall have the following attributions:

a) Promoting the adjustment of the laws and general dispositions to the Principles of the National Movement and other Fundamental Laws of the Kingdom, exercising for this purpose the appeal of contrafuero (infringement of charter) prescribed under Title X of the Organic Law of the State [4].

b) Recommending to the Government whatever measures it may consider advisable for the greater effectiveness of the Principles of the Movement and other Fundamental Laws of the Kingdom and, at all events, being acquainted with and advising on any Bill or amendment to a Fundamental Law, before being submitted to the Cortes.

c) Bringing to the notice of the Government such reports or memoranda it may consider advisable, and executing the assignments entrusted to it by the Government, being empowered in such cases to examine the antecedents it may consider necessary.

Article Eleven.

For the most perfect attainment of the ends and exercise of the attributions ascribed to the National Council in the preceding articles, the regulating norms covering their performance shall guarantee a legitimate contrast of opinions, the possibility of critical analysis of concrete government solutions and the formul-

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[3] Is a reproduction of article 21 of the Organic Law ...of the Spanish State.

[4] See Law regulating the appeal of *Contrafuero*.

ation of measures and plans. Plurality of opinions on political actions shall have due access to the collegiate representation of the Movement.

Article Twelve.

In virtue of what is established in article 25 of the Organic Law of the State, the President of the Government in his capacity as National Leader of the Movement by delegation of the Head of State, shall exercise the Presidency of the National Council and of its Standing Committee, with the assistance of the Secretary-General, to whom he may delegate such functions as he sees fit.

Article Thirteen.

In conformity with what is set forth in article 22 of the Organic Law of the State, the National Council shall be composed of the following Members:

a) One Member elected for each province, in the manner established by the present Law.

b) Forty Members appointed by the Caudillo from among persons who have rendered services of proven worth; upon the fulfilment of succession provisions, these forty Members shall be made permanent until the age of seventy-five, and such vacancies as may arise subsequently shall be filled by election from among three candidates proposed by this group of Members to the Plenary Session of the Council.

c) Twelve Members representing the basic structures of the national community:

— Four elected from among their members by the Deputies of the Cortes representing the family.

— Four elected from among their members by the Deputies of the Cortes representing the local Corporations.

— Four elected from among their members by the Deputies of the Cortes representing the Trade Union Organization.

d) Six Members appointed by the President of the Council from among persons rendering services relevant to the functions enumerated in article seven of the present Law.

e) The Secretary-General, who shall exercise the functions of Vice-President.

Article Fourteen.

I. The election of National Councillors for each province shall be made through arbitrators elected from among its members

by the Provincial and Local Councils, in the manner set forth at the proposal of the National Council [5].

II. Both the election of arbitrators as that of National Councillors shall be effected by secret vote [6].

Article Fifteen.

To apply for nomination as National Councillor the following is required [7]:

a) To be of Spanish nationality and of age.

b) To be in full use of civil rights and free of political incapacity [8].

Article Sixteen.

The incumbents of provincial posts by free designation of the State and its autonomous Organizations, by Provincial Councils, by the Movement, by the Catholic Church or any other religious confession, implying authority or having jurisdiction, may not be candidates for the province where they hold office [9].

Article Seventeen.

Spaniards of one or the other sex, bound to the Movement in accord with the provisions in article 2 of this Law, who apply to the Presidency of the National Council and comply with some of the following conditions, shall be eligible as National Councillors [10]:

a) To be a native or son of natives of the province under reference.

b) To be or have been a National Councillor for the province.

Article Eighteen.

I. To be proclaimed a candidate for the purposes of paragraph a) of article 13 of this Law, it shall be necessary, besides complying with the prescriptions contained in the previous articles, to meet some of the following requisites [11]:

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[5] See Decree 2.139 of 19th August 1967, article 3 and following articles.

[6] See above Decree, articles 6 and 18.

[7] See above Decree, article 9.

[8] See article 3 of the Law of the *Cortes*.

[9] See Decree 2.139 of 19th August 1967, article 8.

[10] See article 10.

[11] See article 11.

a) To be or have been a National Councillor.

b) To be proposed by five National Councilllors. Each National Councillor may propose up to five candidates and of these, only one for each province.

c) To be proposed by ten National Councillors of the respective province, each one of which may only propose one candidate.

d) To be proposed by at least ten local Councillors of the province or by the tenth part of those existing in the said province. Each Local Council may only propose one candidate.

II. Nobody may run or be proposed as candidates for more than one province.

Article Nineteen.

The summons for the election of National Councillors for the provinces shall be made within the two months previous to the termination of the legislature of the Cortes. At least one month as a minimum shall elapse between the publication of the summons and the holding of the elections [12].

Article Twenty.

The applications to which reference is made in article 17 shall be submitted to the respective Provincial Council, together with the documents substantiating fulfiiment of the prescriptions contained in the preceding articles. [13].

The National Council, subsequent to the necessary verifications, shall submit them together with their report to the Standing Committee of the National Council, who is responsible for the nomination of candidates. The resolution of the Standing Committee may be impugned before the Plenary Session of the National Council who will resolve without further appeal [14].

Article Twenty-one.

The candidates who obtain the greater number of votes of those recorded and computed as valid, shall be elected as National Councillors for the respective province. Should there be a draw, the eldest candidate shall be chosen [15].

The Provincial Councils shall submit the corresponding proposal to the President of the National Council, who is responsible for proclaming the Councillors elected [16].

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[12] See articles 1 and 2.
[13] See article 12.
[14] See article 13.
[15] See article 19, paragraph 1.
[16] See article 19, paragraph 2.

Article Twenty-two.

The proposal of candidates as Councillors in representation of the basic structures of the national Community to which paragraph c) of article 13 refers, shall conform to the following norms [17]:

First. The Members of the Cortes who are candidates for the family, local and trade union representations, shall be proposed by ten Members, as a minimum, of their same representative group [18].

Second. Each group shall establish an Executive Board who shall proclaim the candidates and perform electoral operations [19].

Third. The election shall be enacted by a majority of votes of the Members of each representative group, in equal and secret polling, on the date and following the other circumstances indicated by the Presidency of the National Council in accord with the Presidency of the Cortes [20].

Article Twenty-three.

Any incidents which the election of National Councillors may give rise to shall be settled by the Standing Committee of the National Council and those which might imply the nullity of an election shall be settled by the Plenum [21].

Article Twenty-four.

I. The mandate of the National Councillors shall be for four years and shall be extended, at all events, to the corresponding legislature of the Cortes, subject to what is laid down in paragraph II of article 26 of the same.

II. The vacancies which may occur in the National Council as a result of death or for any of the reasons laid down in the following article, shall be covered in the period which shall be regulatively fixed, by the same election or nomination procedure established by this Law for each one of the groups of National Councillors. Those thus elected shall terminate their mandate on the same date as that which would have corresponded to the National Councillors whom they substitute.

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[17] See norms for elections in IX Legislature and Decree 2.139 of 19th August 1967, article 25.

[18] See Order of the Secretariate General of the Movement of 6th November 1967, article 2.

[19] See article 3.

[20] See articles 4, 5, 6 and 7.

[21] See article 7 and Decree 2.139 of 19th August 1967, articles 19, 20, 21 and 22.

Article Twenty-five.

I. In compliance with the provisions contained in article 27 of the Organic Law of the State, the President of the National Council shall cease in his post on terminating his term of office as President of the Government.

II. The termination of office of National Councillors shall be subject to the provisions contained in article 22 and 27 of the said Law and in virtue thereof shall cease:

a) At the end of their mandate, those of groups a) and c); on reaching 75 years of age, those of group b) and at the decision of the President of the Council, those of group d).

b) At their own request when their resignation has been accepted by the Head of State, at the proposal of the President of the Council.

c) Due to incapacity assessed by the Council.

d) For any other reason which may give rise to his cessation as a Member of the Cortes.

Article Twenty-six.

National Councillors shall not be responsible before any jurisdiction whatsoever, not even after termination of their mandate for any of their actions or statements carried out in the execution of their functions [22].

National Councillors shall exercise their representative function with complete freedom of expression of their opinions or beliefs, without any imperative injunction whatsoever, subject to observance of the Principles of the Movement and other Fundamental Laws of the Kingdom.

Article Twenty-seven.

A National Councillor may not be arrested except by authority of the President of the National Council, assisted by his Standing Committee, unless it is a case of an actual offence and immediately reporting the arrest to the President of the Council [23].

Article Twenty-eight.

I. The National Council shall function in plenum and as a Standing Committee

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[22] See article 5 of the Law of the *Cortes;* article 6 of the Ordinance of the *Cortes* and article 12 of the Ordinance of the National Council.

[23] See article 7 of the Ordinance of the *Cortes* and 12 of the Ordinance of the National Council.

II. Preparatory Sections or Reference Committees may be established in accord with the Plenum or Standing Committee and for the purpose of carrying out special studies or reports.

III. The Executive Board of the Council shall comprise, besides the President and the Vice-President, three Councillors and two Secretaries chosen from among its members by the Plenum of the Council [24].

Article Twenty-nine

The Standing Committee shall be established in the following manner [25]:

President and Vice-President: those of the Council.
Members [26]:

a) Four chosen by the group of Councillors to which reference is made in paragraph a) of Article 13 of this Law.
b) Four chosen by the group of Councillors to which reference is made in paragraph b) of the same article.
c) One chosen by each one of the groups of Councillors representing the basic structures of the National Community.
d) One designated by the Presidency of the Council from among the Councillors mentioned in paragraph d) of the same article.
e) The principal Secretary who will act as Secretary to the Standing Committee.

Article Thirty

The Plenum of the National Council shall exercise in full the functions ascribed to said Council [27].

In urgent cases and when the National Council is not constituted in plenary session, the Standing Committee may exercise the powers of the Council, save in those affairs the exclusive concern of the Plenum. At all events, the Standing Committee shall inform of these proceedings, subject to their effectiveness, to the first meeting held by the Plenum for their ratification.

If an ordinary meeting of the Plenum should not be held within a period of two months as from the date of the resolution of the Standing Committee, such a meeting shall be convened for the purposes of this article within the said period.

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[24] See Order of the Secretariate General of the Movement of 8th November 1967, articles 1, 2, 3 and 8.

[25] See articles 23 to 27 of the Ordinance of the National Council.

[26] See Order of the Secretariate General of the Movement of 8th of November 1967, articles 4 and 8.

[27] See articles 48 to 58 of the Ordinance of the National Council.

Article Thirty-one

The functions of the Standing Committee are the following:

a) To collaborate with the Presidency in the government and direction of the affairs of the Council.

b) To propose to the Presidency the assembly of the Plenum.

c) To propose to the Plenum the establishment of Sections and the designation of Presidents and Vice-Presidents of the same, as well as assigning the Councillors to each Section.

d) To resolve the constitution of the special Reference Committees for the fulfilment of studies and reports.

e) To propose to the Presidency the agenda for the plenary sessions.

f) To submit to the Plenum, together with a report and at the proposal of the Secretary-General, the structure projects and changes considered advisable in the different organizations of the Movement.

g) To inform and submit to the Plenum for their approval, within the available assignations and other resources, the budgets for the Council of the General Secretariate and for the organizations of the Movement, as well as their clearance.

h) Any others entrusted to it by the President, the Vice-President or by the Plenum.

Article Thirty-two

I. A Plenum may be convened by the President and, at all events, by his delegation, by the Vice-President. In any case, a number of Councillors no less than one third of the total number of the members of the Council, may preside over the meeting once a request for the same has been made to the President.

II. The Plenum will hold at least three ordinary periods of sessions each year which shall commence by a political report from the Government.

III. The Standing Committee shall meet as many times as considered advisable and may be convened by the President, or by his delegation, by the Vice-President.

Article Thirty-three

Members of the Government may attend the plenary sessions of the Council. They shall likewise be able to take part in them by leave of the Presidency.

Article Thirty-four

I. The acts of the Council shall take the form of agreements, verdicts, reports, Memoranda, motions and proposals, according to each case.

II. The agreements of the Plenum and of the Standing Committee shall be accepted by a majority of votes of the attendants, save when the laws or Ordinance of the Council demand a special "quorum" of attendance or voting. The attendance of half plus one of its members shall be required for the agreements to be valid.

Article Thirty-five

I. The initial proposal for promoting an appeal of "contrafuero" (infringement of the Charter) may be formulated in the manner prescribed in paragraph a) of article 60 of the Organic Law of the State by [28]:

a) A group of Councillors comprising more than a third of the total number of members of the Council.

b) The Standing Committee of the Council.

II. National Councillors may address the Standing Committee of the Council and submit the reasons they may have for considering that a Law or general disposition of the Government transgresses the Principles of the Movement or the Fundamental Laws of the Kingdom. The Standing Committee shall decide whether or not the suggestion shall be considered.

Article Thirty-six

For the fulfilment of the function which the Organic Law of the State vests in the National Council of safeguarding the exercise of the rights and freedoms recognized by the Fundamental Laws, a special section shall be created within it, presided over by one member of the Standing Committee elected by the same and comprising six Councillors elected by the Plenum, four of which shall have to be practising lawyers.

All Spanish people may address this Committee to request the safeguarding of their rights and freedoms which they may consider are impaired and which are not covered by some jurisdiction. The legitimization conditions and the requisites and procedures for the exercise of this right shall be established at the proposal of the National Council.

Article Thirty-seven

The National Council in accord with the Government shall draft and approve its Ordinance, which shall be submitted for indorsement to the Head of State.

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[28] See article 41 of the Ordinance of the National Council.

IV. THE SECRETARIATE GENERAL OF THE MOVEMENT

Article Thirty-eight

I. The Secretary-General of the Movement shall be a Minister of the Government. His nomination shall conform to the provisions contained in article 26 of the Organic Law of the State.

II. The Secretary-General shall cease in his office:

a) When the President of the Government is replaced.

b) On the initiative of the President of the Government, accepted by the Head of State.

c) At his own request, when his resignation has been accepted by the Head of State at the proposal of the President of the Government.

Article Thirty-nine

The Secretariate General of the Movement is the organization entrusted with executing the agreements of the National Council in all aspects corresponding to the latter's activities, and shall direct the organizations and services of the Movement, under the authority of the National Leadership and the recommendations of the Council, and shall be responsible to both for their dispatch.

Article Forty

The structure of the Secretariate General shall be regulated at the proposal of its incumbent by the Plenum of the National Council prior to a report by the Standing Committee, including the agencies required for the adequate fulfilment of the ends ascribed to the Council.

Article Forty-one

The National Movement has juridical status and autonomous tenure for the fulfilment of its ends. The organizations and entities constituted within it, to be determined by the National Council, shall also enjoy, to the same effects, these prerrogatives.

ADDITIONAL DISPOSITIONS

First

The Government shall adapt the electoral procedure established in this Law to the special régimes of the Sahara and Equatorial Guinea.

Second

For the purposes of this Law, Ceuta and Melilla shall constitute two electoral circumscriptions, each one nominating a National Councillor.

TRANSITORY DISPOSITIONS

First

In accordance with what is established in the first transitory dispositions of the Organic Law of the State, the National Leadership of the Movement is vested for life in the person of Francisco Franco, Caudillo of Spain. Upon the fulfilment of the provisions of the succession, it shall pass to the Head of State and, by his delegation, to the President of the Government.

Second

I. The first election of Councillors for each province which takes place as from the publication of this Law shall be made by selected arbitrators from among its members by the Municipal and Local Councils, in the following proportion: in towns of less than two thousand inhabitants, one arbitrator for each Municipality and Local Council; between two thousand and one and five thousand, two and two; between five thousand and one and ten thousand, three and three; between ten thoussand and one and twenty thousand, four and four; between twenty thousand and one and fifty thousand, five and five; between fifty thousand and one and one hundred thousand, six and six; between one hundred thousand and one and two hundred and fifty thousand, seven and seven, and as from two hundred and fifty thousand, one and one more for each two hundred and fifty thousand inhabitants, up to the maximum number of members of the Municipality and Local Council [29].

II. All the provincial Deputies or members of the corporations or Chapter Councils shall participate as arbitrators in this election and an equal number of arbitrators selected by the Provincial Council of the Movement [30].

III. Both the election of arbitrators as that of National Councils shall be performed by secret voting [31].

Third

The periods prescribed in article 19 may be modified by the Government at the first elections held in accord with this Law.

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[29] See Decree 2.139 of 19th August 1967, article 3.
[30] See Decree 2.139 of 19th August 1967, article 3.
[31] See Decree 2.139 of 19th August 1967, article 6.

Fourth

The provisions in articles 13 and 24, paragraph III of article 28 and article 29 of this Law, shall come into force upon the constitution of the next National Council and the dispositions at present in force regulating the matters to which such articles refer, shall be applied until then.

Fifth

I. Within the term of one year as from its constitution, in compliance with the present Law, the National Council in Plenum shall submit the necessary proposal for amending and perfecting the organization norms in force related to the Movement.

II. Especially, and having regard to its representative character, the new structure of the present Local and Provincial Councils shall be proposed, bearing in mind the extent of the ends and functions of the National Movement, in accord with the prescriptions in articles 1 and 2 of this Law and in such manner that it will permit the organic participation of all Spanish people who accept the Principles of the Movement and other Fundamental Laws of the Kingdom.

III. In this proposal an indication shall be expressly made of the dispositions which should be derogated or remain in force as from the date in which the National Leadership, by reason of its prerogatives, approves in the necessary terms the proposal under reference.

FINAL DISPOSITIONS

First

This Law shall come into force on the same day as its publication in the Official Bulletin of the State.

Second

The National Leadership, the Government and the Secretariate General, in the area of competence attributed to them by this Law, shall draft the necessary dispositions for its fulfilment and development.

LAW REGULATING THE APPEAL OF CONTRAFUERO, of 5th April, 1968 [1], [2].

The Organic Law of the State, approved by national referendum specifies that it is the responsibility of the Head of State to safeguard the most exact observance of the Principles of the Movement and other Fundamental Laws of the Kingdom. It corresponds to the National Council, according to this Law, to protect the integrity of the Principles of the Movement and to protect the development and exercise of the fundamental rights. And the Cortes are designed as the supreme participating body of the Spanish people in the pursuits of State.

This dynamic concept of our national juridical order is crowned by the adjustment of the appeal of contrafuero (infringement of charter) so deeply rooted in Spanish historical law in its essential significance as a guarantee against the deflections of power, although they should be enacted through means and methods nowadays overcome. The decision over this far reaching appeal is the competence of the Head of State and its promotion is the responsability of the National Council and the Standing Committee of the Cortes, in the exercise of the institutional functions conferred upon them.

This Law regulates the conditions, the form and the terms of procedure for promoting and substantiating an appeal of contrafuero in fulfilment of the provision contained in article 66 of the Organic Law of the State, and the ambit proper to the appeal has been defined as an infringement of the principles which govern the National Movement or the norms contained in the Fundamental Laws of the Kingdom. Consequently, the permanent and immovable system of our laws is guaranteed, as apart from the simple control covering the legality of acts of the Administration, and action is taken before the Courts dealing with contentious-administrative matters.

Thus the appeal of contrafuero constitutes a supreme political appeal wherein the decision lies with the Head of State, supreme representative of the Nation whose sovereignty he personifies.

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[1] Published in the *Official Bulletin of the State* of 6th April 1968.

[2] See articles 59 to 66 of the Organic La. the State, which appear under Title X.

the Laws approved by national referendum being excluded from the contrafuero.

On developing the exercise of this appeal, as one of the means for promoting the activity which lies with the National Council and the Standing Committee of the Cortes in order of their interposition, recognition is made of the faculty of every person, legally entitled to make use of the right of appeal, to denounce the existence of a contrafuero, whereby the authentic and efficacious participation of public opinion in political affairs is stimulated, although this does not imply a substitution of the functions which institutionally pertain to the respective organization.

Special consideration has been given to the political nature of the appeal on adjusting it for the purpose or establishing its proceedings in accordance with criteria which allows a certain flexibility, subject to the necessary guarantees, taking most special care in drafting precise dispositions so that the actuation of the advisory committee of reference shall be surrounded by the maximum guarantees for the purpose of providing it with full independence in the exercise of its function, to be performed within the most exact impartiality.

As contrary to the principles contained in the Fundamental Laws of the Realm which may have been infringed by a legislative act, the Law establishes the complete inefficacy of the disposition the object of the appeal of contrafuero, subject to the preventions contained in each case respecting specified effects which may occur as a result of acts based on the disposition annulled when the certainty and stability of the juridical relations and situations created under cover of the Law so demand.

In virtue whereof and in conformity with the Law approved by the Spanisht Cortes, I hereby resolve:

CHAPTER I

AMBIT OF THE APPEAL

Article 1.

1. The appeal of contrafuero shall be regulated, as regards the conditions, forms and terms wherein it should be promoted and substantiated, by Articles 59 and successive ones of the Organic Law of the State and by the dispositions of this Law.

2. It is the responsability of the Council of the Realm to proceed with the appeal and to propose to the Head of State the resolution of the same [3].

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[3] See article 20 of the Organic Law of the Council of the Realm of 22nd July 1967.

3. An appeal of contrafuero may be lodged by:

a) The National Council, in all cases, by decision adopted by two third parts of its Councillors [4].

b) The Standing Committee of the Cortes in the dispositions of a general character of the Government by means of a resolution adopted by the majority of two thirds of its components [5].

Article 2.

The appeal of contrafuero may be promoted against every legislative act or general disposition of the Government which may infringe the Principles of the National Movement or other Fundamental Laws of the Kingdom.

Article 3.

1. The following may be subject to an appeal of contrafuero:

First.—The Laws.

Second.—The Projects or propositions of Law elaborated by the Cortes which shall be submitted to a national referendum.

Third.—Decree-laws.

Fourth.—Decrees and other dispositions of a general character drafted or approved by the Government or by its Delegated Commissions.

2. If in the exercise of the statute powers conferred on Ministers some disposition were drafted which the National Council or the Standing Committee considered as contrafuero, the latter should address the Government during the term of two months, as from its publication, so that steps shall be taken to modify or revoke it. The Government shall expressly modify, revoke or confirm, within a period of two months, the disposition under discussion, it being understood that in the case of confirmation or modification, it will become a general disposition of the Government. Against this ruling an appeal of contrafuero may be entered.

3. The Laws approved by national referendum cannot be the object of an appeal.

CHAPTER II

PRELIMINARY PROCEEDINGS

Article 4.

1. Spanish people in accordance with the norms regulating the right of petition, may address the National Council or the Standing Committee of the Cortes, as required, stating in detail

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[4] See article 10, a) of the Organic Law of the Movement and its National Council, of 28th June 1967, and article 35 of the same Law.

[5] See article 22, para. 1 of the Ordinance of the Spanish *Cortes*.

tnat, for all they know, one of the acts enumerated in article three incurs in contrafuero [6].

2. In the event that the Standing Committee of the Cortes should observe an infringement of the Principles of the Movement or other Fundamental Laws, in a Bill or proposed Law prescribed by the corresponding Committee of the Cortes, it shall express its opinion in a reasoned communication to the President of the Cortes within eight days following the publication of the ruling in the Official Bulletin of the Cortes who shall pass it on to the Committee responsible for the ruling, so that it may re-examine the Bill of proposed law in question. Meanwhile, its conclusion on the agenda of the Assembly shall be suspended or, if necessary, it shall be removed.

3. The Committee of article 12 of the Law of the Cortes may also, on investigating the urgency of a Decree-Law, bring to the notice of the Standing Committee of the Cortes any matter of contrafuero which it may observe in its text.

CHAPTER III

INTERPOSITION OF THE APPEAL

Article 5.

Once the National Council or the Standing Committee of the Cortes, according to their respective competency, have agreed on the interposition of the appeal, a suit of action shall be instituted by writing before the Council of the Realm within a period of two months as from the publication in the Official Bulletin of the State of the Law or general disposition the object of the appeal.

Article 6.

1. The period for the interposition of the appeal shall be computed from date to date. If in the month of expiration there should be no day equivalent to the initial one, it shall be understood that it expires on the last day of the month. Il the last day of the term should be a holiday, it shall be understood as extended to the first subsequent working-day.

2. When an appeal is presented against Bills or draft Laws elaborated by the Cortes, which are to be submitted to national referendum, the term shall begin to count as from the moment in which the National Council has made the report requested by the Head of State [7]

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[6] See Law of 22nd December 1960, regulating the right of petition.

[7] See Referendum Law of 22nd October 1945, revised text of 20th April 1967, and article 10 of the Law of Succession to the Headship of the State of 26th July 1947, revised text of 20th April 1967.

Article 7.

1. The communication in which the appeal is laid down should contain:

a) An indication of the organization appealing, as well as a detailed account of the antecedents which have determined the interposition and a statement to the effect that it has been adopted within the requisites prescribed in the Law.

b) The legislative act or disposition against which the appeal is entered.

c) Express mention of the principles or precepts infringed by the disposition appealed against.

d) Reasoned statement of the motives for the appeal.

e) Concrete petition which is formulated in regard to total or partial nullity of the disposition appealed against.

f) Signature of the President of the Organization duly legalized for promoting the appeal or of the Authority who legally substitutes him.

2. It shall also be possible to request the suspense of the act or disposition being appealed against when established motives concur.

Article 8.

The writ of interposition of the appeal should be accompanied by:

a) Testimonial of the agreement adopted for promoting the appeal and of the votes issued.

b) Testimonial accrediting, at all events, the date on which the report requested by the Head of State has been cleared, in the cases to which reference is made in number 2 of paragraph 1 of article 3.

c) Testimonial justifying the initiative or proposal which, at all events, has given rise to the procedure of the Organization entering the appeal.

d) Other documents considered advisable for the purpose of the appeal.

Article 9.

1. Once the appeal has been lodged, the President of the Council of the Realm shall immediately notify the Head of State and within a period of not more than eight natural days, shall bring it to the attention of the Standing Committee of the Cortes or of the President of the Government, as the case may be, so that if necessary they may appoint a representative to defend the validity of the Law or disposition of a general character

concerned before the Council of the Realm. If it is observed that the writ promoting the appeal does not contain the requisites demanded, the organization concerned shall be requested to furnish them.

2. Defense of the general disposition of the Government the object of the appeal of contrafuero shall correspond, save in exceptional cases, to the "Director General de lo Contencioso del Estado" (Director General of State Litigation). In the case of defending a legislative act, this shall be entrusted to a Counsellor of State.

Article 10.

1. Upon presentation of the appeal and if well-founded motives concur, the Council of the Realm may propose to the Head of State the suspension, during the process of appeal, of the Law or general disposition concerned or, if applicable, of the precept or precepts of such a law or disposition that may be affected by the appeal.

2. The resolution to suspend shall be published in the Official Bulletin of the State within a period of five days and shall imply suspension of the execution of the acts prescribed and of all the proceedings connected with the application of the norm impugned.

Article 11.

The President of the Council of the Realm shall notify the President of the Supreme Court of the interposition of the appeal of contrafuero against a general disposition of the Government for the purpose of suspending, in any case, the procedure of any contentious-administrative appeal which may have been lodged or about to be lodged against it, until such time as a resolution has been taken on the appeal of contrafuero.

CHAPTER IV

SUBSTANTIATION

Article 12.

1. If the defending lawyer should appear within a period of ten days as from the date on which the Cortes or the Government shall have received the communication mentioned in article 9, the Council of the Realm shall hand him a copy of the appeal so that within thirty natural days (not renewable), he may plead in writing whatever he considers advisable in justification of the legislation or disposition impugned.

2. Whichever may be the circumstances of the proceedings, the defending lawyer may be designated, appear and request a

hearing of the Council of the Realm or of the Committee of Inquiry referred to in Chapter V of this Law, although this will not permit antedating or interrupting the course of the proceedings.

Article 13.

1. Following the handing over to the lawyer of a copy of the appeal, the antecedents of the same together with the documents provided by the lawyer or obtained at his request from any organization, shall be delivered to the Committee of Inquiry within a time limit of sixty natural days (not renewable).

2. If a defending lawyer should not have been designated or not have appeared or, if, within the period indicated, he should not have dealt with the matter, the Council of the Realm shall hand over the antecedents in his possession to the Committee so that they shall issue a ruling.

Article 14.

1. Within the period granted to the Committee for the issue of a ruling, they may request the defending lawyer to formulate the allegations he may deem advisable or to enlarge or clarify those already made, and shall claim from any one organization the documents and reports they may consider pertinent.

2. The Committee shall issue a reasoned ruling by writing, prior to debate and voting in regard to the proposal elaborated by the Member designated to that effect, with details of the individual votes, if any.

CHAPTER V

COMMITTEE OF INQUIRY

Article 15.

1. The Committee of Inquiry which in accordance with article 62, I, of the Organic Law of the State shall give a ruling on questions concerning appeals of contrafuero, shall be constituted every year. To this effect, during the first fortnight of the month of January of every year, the Government Division of the Supreme Court of Justice shall appoint two Presidents, one as head of the Division and the other as substitute, who shall preside over the Committee, as well as two Magistrates of the Supreme Court who shall form part of the same as Members, one of the them as substitute. The Standing Committees of the Cortes, the National Council and the Council of State shall also appoint Members, one head and one substitute, to represent them on the Committee of Inquiry.

2. Having made the required nominations by secret voting, and before the last day of the month of January, the Committee of Inquiry shall be constituted in the presence of the Council of the Realm, prior to taking an oath before its President. The meetings of the Committee shall take place within the Council of the Realm.

3. If as a consequence of the four year renovation of the Cortes or the National Council it were not possible to comply with the dates established in the previous paragraph, the representative of these Organizations on the Committee, shall be nominated within a period of ten days as from the constitution of the new legislature. The Committee of Inquiry shall be constituted within the term of twenty days.

Article 16.

The members of the Committee of Inquiry shall act in the exercise of their function with full independence and cannot be held responsible except for a penal offense in which they may have incurred, in which case the Supreme Court in full shall give a ruling.

Article 17.

1. Acceptance of nomination as member of the Committee of Inquiry is obligatory, as well as fulfilment of the function concerned, except in the case of abstention or material impossibility fully justified. Unjustified absence from any of the meetings of the Committee of Inquiry shall result in automatic dismissal and substitution by the deputy.

2. In case of vacancy this shall be covered by the substitute and the President of the Council of the Realm shall submit a renewed nomination of the respective substitute.

3. During the term for which they are legally designated, members of the Committee of Inquiry may not be deprived of the exercise of their function, unless they shall have ceased in the exercise for which they were appointed or have incurred in an unjustified absence.

CHAPTER VI

RESOLUTION

Article 18.

Upon a ruling being issued by the Committee of Inquiry, the Council of the Realm, constituted exclusively for this purpose under the presidency of the President of the Supreme Court of

Justice, and subsequent to the necessary debates, shall propose to the Head of State, within a period of thirty natural days, which may be interrupted for the practice of investigations which they may consider advisable, the resolution to be taken on the legislative act or general disposition the object of the appeal.

Article 19.

1. The proposal of the Head of the State shall contain:

First.—The circumstances in which the appeal was identified.

Second.—The resulting hypothesis on the point litigated, including the allegations formulated and the ruling of the Committee of Inquiry.

Third.—The legal and doctrinal reason which justify the proposal.

Fourth.—The resolution considered pertinent in consideration of some of the following statements:

a) No grounds for the appeal since it was not promoted within the required period and by the corresponding legal bodies in virtue of agreement adopted with the requisites demanded by Law or because it was presented against an act not susceptible to appeal.

b) Rejection of the appeal because of the non-existence of contrafuero in the act or disposition impugned, nullifying suspension if such a decision has been taken.

c) Appraisement of the appeal and nullity due to contrafuero of the Law or dispositions of a general character in question, or of the precept or precepts connected thereto which may be affected by the appeal, with a definition of the extent to which such an appeal applies in each case, including with regard to juridical situations created during the enforcement of the said dispositions.

2. The proposal shall include details of individual votes, if any.

CHAPTER VII

THE RESOLUTION AND ITS EFFECTS

Article 20.

1. A resolution shall be taken within a term of sixty days and shall contain the circumstances and requisites demanded for the proposals in the previous article, the date and signature of the Head of State and shall be countersigned by the President of the Council of the Realm.

2. If the resolution in question should not expressly specify the results of the nullity agreed upon, it shall be understood that the legislative act or disposition annulled as a contrafuero has had no juridical effect whatsoever.

3. The Council of the Realm shall communicate the resolution to the organization who shall have promoted the appeal and to the one from which the disposition appealed against originated.

Article 21.

1. The resolution on the appeal of contrafuero shall be published in the Official Bulletin of the State by the President of the Council of the Realm and shall take effect as from the moment of its publication.

2. Should suspension of the legislative act or general disposition impugned be agreed upon and it should not give rise to nullity, publication shall cause the suspension to be lifted.

TRANSITORY DISPOSITIONS

First.

The period of two months for the interposition of the appeal of contrafuero against legislative acts and general dispositions published in the Official Bulletin of the State, as from the entry in force of the Organic Law of the State, shall begin to count as from the day following the insertion of the present Law in the said Official Bulletin of the State.

Second.

The Committee of Inquiry to which reference is made in article 15 of this Law, shall be appointed within ten days as from its entry into force and shall be constituted within a further period of twenty days as from the termination of the previous one.

Third.

This Law shall come into force as from its publication in the Official Bulletin of the State.

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